ANNUAL REPORT 1991-92

ONTARIO LAW REFORM COMMISSION

1992

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The Ontario Law Reform Commission was established by the Ontario Government in 1964 as an independent legal research institute. It was the first Law Reform Commission to be created in the Commonwealth. It recommends reform in statute law, common law, jurisprudence, judicial and quasi-judicial procedures, and in issues dealing with the administration of justice in Ontario.

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Ontario
Law Reform
Commission

To The Honourable Howard Hampton
Attorney General for Ontario

Dear Attorney:

We have the honour to present the 1991-92 Annual Report of the Ontario Law Reform Commission, for the period ending March 31, 1992, in accordance with section 2(3) of the *Ontario Law Reform Commission Act*, R.S.O. 1990.

Rosalie S. Abella
Chair

Richard E. B. Simeon
Vice Chair

Earl A. Cherniak
Commissioner

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Margaret A. Ross
Commissioner

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INTRODUCTION

This report outlines the activities of the Ontario Law Reform Commission for the year ending March 31, 1992. As it happens, it also presents a personal opportunity to thank the Commission for an extraordinary term as its Chair for the past three years. Being appointed to the Bench transforms my relationship with the O.L.R.C. from anxious producer to eager client; but it affects my loyalty to the Commission and its goals not one bit.

If anything, my sense that Law Reform Commissions are vital institutional contributors to legal policy has grown with time and exposure. They are natural partners with governments in the development of reform visions, but they also enjoy a perspective not usually available to day-to-day governors. They are neither constrained by the urgencies of the moment nor inhibited by the caution the search for early and wide approval inspires.

This is not to suggest that Law Reform Commissions have no duty to be relevant, practical, or careful. It suggests instead that our definition of what is relevant, practical, and careful has a different perimeter when measuring the boundaries of work produced by think tanks. Whether temporally, substantively or conceptually, these institutions can – and should – think about issues of law and policy for which governments have no time, appetite, courage or immediate need.

Issues too large, too small, too contentious or too embryonic for the government of the day, may nonetheless be issues in need of public policy analysis and potential reform. By their nature, such issues are best examined by skilled institutions which are committed to the public and to policy, while at the same time independent of the governments or agitations of the day.

Law Reform Commissions are such institutions, ready to have their work tested by time, not immediate legislative response, and with the time to generate the menu of ideas from which generations of legislators, lawyers, academics, judges, journalists, civil servants, analysts, and thinkers – all members of the community – choose their policy nourishment. Their value lies in the public and private debate their work intellectually subsidizes, not only in the number of statutes their formulations encourage. Their importance is in their capacity to broker and inspire and spotlight ideas of public value. And it is the quality of those ideas that should determine relevance, measured not against idiosyncratic or ideological or sectoral concerns, but against time and the public interest.

It is for all these reasons that the Ontario Law Reform Commission created a broadly based Advisory Board, developed monthly multi-disciplinary Roundtable Discussions on Law and Social Policy, expanded its research agenda to include more public law issues, and issued a wider variety of research publications. This represents considerable change in a relatively short period of time, but it by no means represents the conclusion of the evolution that started so brilliantly in 1964 when Ontario established the first Law Reform Commission in the Commonwealth.

It is a Commission that has radiated from the talents of dozens of committed staff lawyers and Commissioners over the years. But it is hard to imagine a more collegial, congenial and dedicated group of people than those I have had the privilege of working with over the past three years. A particularly grateful sentiment is owed to Richard Simeon, the Political Scientist and Vice-Chair who co-designed the Commission's programme and helped implement it with enthusiasm and generosity; and to our fellow Commissioners – Rob Prichard, Margaret Ross, Earl Cherniak and John McCamus – who created the machinery to carry out the vision and provided the fuel. It is a great group of people in service of a great Commission.

During the past year we have completed four major reports, a collection of papers, and a compilation of the Commission's recommendations.

The *Report on Exemplary Damages* was tabled in the Ontario Legislature on June 27, 1991. The *Report on Child Witnesses* was tabled on July 25, 1991. Also tabled were the *Report on Testing for AIDS* and the *Report on Public Inquiries,* on March 12, 1992, and March 30, 1992, respectively.

In addition to these reports, the Commission released a collection of papers on the judicial role and judicial appointments, entitled *Appointing Judges: Philosophy, Politics and Practice,* as well as a three volume reference work containing a summary of the recommendations made by the Commission since its inception.

Finally, the Commission initiated a series of Roundtable discussions to examine various issues in law and social policy reform, discussed in Appendix C.

THE PROGRAM

A. Completed Projects

Appointing Judges: Philosophy, Politics and Practice

When the Meech Lake Accord gave the provinces the right to submit lists of candidates from which an appointment to the Supreme Court of Canada would be made, the Ontario Law Reform Commission embarked on a project on judicial appointment under the direction of Dean John Whyte, of Queen's University's Faculty of Law. The purpose of the project was to define a process and set of criteria to assist the Government of Ontario in choosing the best candidates.

The Accord was never ratified and the project accordingly lost its immediate rationale. But the question of how to select candidates not only to the Supreme Court, but also to all levels of the judiciary, remains an issue of increasing public interest. The *Canadian Charter of Rights and Freedoms* was probably the greatest stimulus to public attention on the judiciary and its membership. Although judges had always, through their interpretive role, played a role in the development of public policy, the constitutional entrenchment of the Charter transformed the role from a penultimate to an authoritative one. And this in turn focused public scrutiny on judges, the people now empowered to make final judgments about the state's capacity to legislate.

As this collection of papers demonstrates, these developments have heightened public interest not only in the judicial role, but in the qualifications of the people who execute the office. The very meanings of judicial neutrality, competence, and even omniscience have undergone critical reassessment, as have the processes that result in judicial appointment. Respect for judicial independence has been enhanced, as it should be, but so has the demand that the process of selection itself enjoy independence from the vagaries of politics. A more representative judiciary, more sensitive to the pluralistic and diverse values enshrined in the Charter and manifest in our changing society, is intensely urged.

Courts and judges have become the definers and guardians of the relationships between citizen and state set out in the Charter and they have become integral elements within the policy process. In a society of diverse interests and competing values, impartiality is increasingly understood not as a reflection of the status quo, but as a capacity to be genuinely open to the pluralistic views and people Canada represents. No longer are the traditional judicial attributes of knowledge, common sense, civility, and experience

sufficient. Judicial decision-making is not the mechanical application of law and precedent to sets of facts. The legitimacy of the judges, and their effectiveness in playing the complex roles we have assigned them, depend on the openness and fairness of their selection, and on their sensitivity to the society which they serve and from which they come.

This volume is designed to explore just these issues. It represents an innovation in publications of the Ontario Law Reform Commission. It does not contain a set of recommendations. Instead, it consists of research and reflection on various aspects of judicial selection, embracing the varied points of view of a number of noted scholars responding to questions posed by the Commission. The broad issues explored in this volume – from philosophical questions about the role of courts in our society, to questions about representation and accountability, and to the specific procedures which might institutionalize and guarantee the values to be achieved in judicial selection – do not easily make for precise recommendations. Rather, with this volume, the Commission is, in accordance with its mandate, hoping to stimulate discussion on a legal issue of fundamental concern to the public.

Neither the Commission nor the authors make conclusive proposals for a particular process of judicial selection; but all endorse wholeheartedly an independent, representative judiciary, however selected, which is fully responsive to the dynamism of the law and the needs of the public it serves.

Exemplary Damages

In its *Report on Exemplary Damages,* the Ontario Law Reform Commission seeks to accomplish two main objectives. First, it seeks to respond to the arguments made in recent years suggesting that exemplary or punitive damages have contributed to a crisis in the operation of the tort law system, and to the so-called "insurance crisis". Second, it seeks to rationalize the theoretical basis of exemplary damages, to assist in ensuring that they are awarded in accordance with clearly articulated principles.

Exemplary damages are awarded primarily to deter and punish the defendant for reprehensible conduct. Over the past several years, a great deal of concern has been expressed that exemplary damages have contributed to a perceived crisis in the operation of both the tort system, and the insurance industry. The specific concerns expressed include the following: (1) that exemplary damages are being claimed, and awarded, much more frequently than they were in the past; (2) that they are being claimed, and awarded, in cases involving increasingly diverse causes of action; (3) that they are being awarded in larger amounts than they once were; (4) that they are

being awarded in cases in which they are not justified, or in excessive amounts; and (5) that spurious claims for exemplary damages may have an undesirable effect on the settlement process, by coercing defendants to settle claims, or settle claims for higher amounts, than they would otherwise.

In order to investigate these concerns, and to develop a statistical foundation for this report, an empirical study was undertaken on behalf of the Commission. On the basis of this and other research conducted in connection with the report, the Commission concludes that there is no evidence of a "crisis" caused by the existing law of exemplary damages. The Commission also concludes that, given the existing legal principles in Ontario, it is unlikely that such a crisis would occur here.

The Commission does, however, make a number of recommendations for reform of the law of exemplary damages, designed to provide a clear, consistent and rational basis for such damages. In order to accomplish this objective, the Commission adopts a functional approach, isolating the three functions, or rationales, typically advanced to justify the award of exemplary damages: (1) compensation; (2) punishment; and (3) deterrence.

The Commission attempts to clarify the present law by making the goals sought to be achieved by an award of exemplary damages more explicit, and by identifying specifically the policy goals to which exemplary damages ought to be required to respond.

Chapter 2 summarizes the present law of exemplary damages in Canada, England, and the United States. It also contains a discussion of some of the significant differences between the law in Canada and the United States. Chapter 3 provides an outline of the arguments ordinarily advanced for and against the award of exemplary damages. The empirical information available about exemplary damages in Ontario and the United States is summarized in chapter 4.

One obvious approach suggested by the functional analysis adopted by the Commission is to exclude entirely the compensatory function from exemplary damages. The courts have already attempted to isolate the compensatory function by distinguishing aggravated damages from exemplary damages. Traditionally, aggravated damages compensate the plaintiff for injuries to pride and dignity resulting from the defendant's exceptional conduct, while exemplary or punitive damages are intended to punish and deter the defendant. Therefore, the analysis in chapter 5 begins not with exemplary damages, but with aggravated damages. The Commission recommends that injuries to pride and dignity should be compensated according to ordinary compensatory principles. Specifically, the Commission recommends that the court should be empowered to award compensatory

damages for injuries to pride and dignity as part of the ordinary global award of damages for non-pecuniary loss, and that such damages should be available without proof of exceptional conduct. Our recommendations are designed to distinguish more sharply the compensatory function from deterrence and punishment, and so to clarify the subsequent analysis of exemplary damages.

Chapter 6 deals with the general case for exemplary damages as a supplement to the criminal law. Historically, the primary function of exemplary damages has been punishment, and the Commission recommends that it remain so. The Commission endorses the concept of civil punishment in exceptional cases as a supplement to the criminal law, and supports the symbolic function of punitive damages. It recommends that exemplary damages for the purpose of punishment should continue to be available in Ontario, and should be referred to as "punitive damages", a term deliberately adopted to convey more accurately the purpose of the award.

The Commission further recommends that punitive damages should be awarded only where the defendant has advertently committed a wrongful act deserving of punishment, and where the defendant's conduct was exceptional. It also recommends that the size of an award of punitive damages should be proportionate to the gravity of the act deserving of punishment. Finally, the Commission makes proposals respecting a variety of issues, including the quantification of punitive damages, the burden of proof, vicarious liability, concurrent wrongdoers, and the survival of claims.

In chapter 7 the Commission deals with an aspect of "tort for profit", and recommends that where a plaintiff chooses the remedy of restitution, rather than suing in tort, he or she should also be entitled to claim punitive damages.

In chapter 8, special issues that pertain to negligence, nuisance, and equitable wrongs are discussed. The Commission recommends that punitive damages should be available, in accordance with the earlier proposals, in these cases. In chapter 9 the Commission considers the unique case for imposing punitive damages on statutory public authorities, and recommends that public authorities should remain independently liable for punitive damages where they knowingly exceed their legal authority and injure another tortiously. Finally, in chapter 10, the Commission discusses extra damages in contract, and concludes that it would be premature to make recommendations for reform in this context.

Child Witnesses

In the *Report on Child Witnesses*, the Ontario Law Reform Commission attempts to achieve three principal objectives: (1) to challenge the assumptions on which many of our legal rules are based regarding the unreliability of children's evidence; (2) to encourage the Legislature to repeal legal rules which impede child witnesses from telling the court what they witnessed; and (3) to introduce protective devices into the legal system to ensure that the court receives as complete, coherent and accurate an account as possible from the child witness. The report demonstrates that many of the common law and statutory rules applicable to child witnesses are based on erroneous notions about the unreliability of children's testimony. Psychological studies conducted in the last twenty years show that the traditional views about children's evidence lack empirical foundation. The current research clearly indicates that children do have adequate cognitive skills to understand or to describe what they have witnessed, children can differentiate fact from fantasy, and children have an ethical sense and are no more likely to fabricate evidence than are adults.

The Commission recommends that the oath be abolished and that it be replaced with a promise to tell the truth. The rules in the Ontario *Evidence Act* have made it extremely difficult for children to be qualified as witnesses with the result that judges may be deprived of hearing potentially valuable evidence. The Commission's view is that the oath requirement is essentially a test of religious understanding rather than a test of the child's ability to understand the importance of being truthful. The transformation of Ontario from a religious to a largely secular society further accentuates the inappropriateness of the oath.

The Commission proposes that the provision in the *Evidence Act* requiring corroboration of a child's unsworn evidence be repealed. In addition, the Commission recommends that there be no rule of any kind that requires a court to assume that the uncorroborated evidence of a child is unreliable. The Commission makes these recommendations for the following reasons. First, there is no scientific basis for assuming that a child is incapable of furnishing reliable evidence. Second, there is often no direct evidence, either physical or eyewitness, to corroborate the child's testimony. A further reason for the abolition of these legal rules is that it is unreasonable and unfair to have such restrictive evidentiary rules for children and not for adult witnesses.

Reform of the hearsay rule for the statements of children is another important recommendation in the report. In many cases, the hearsay evidence of the child is the best evidence of the subject matter being litigated

and constitutes the only substantive evidence of the subject of the proceedings. The Commission recommends that the hearsay statements of a child be admissible, if, in the opinion of the judge, the statements are sufficiently reliable. The court can then assess the weight to be accorded to the child's out-of-court statements. The Commission believes that this recommendation will introduce clarity into the law and will permit what may be extremely reliable evidence to be considered by the courts.

In the final section of the report, the Commission proposes that legislation should be introduced which accommodates children who give evidence in civil proceedings. The vulnerability of child witnesses should be acknowledged and the manner in which children give evidence modified accordingly. Legislation which authorizes videotaped testimony and which permits child witnesses to testify behind a screen or by closed-circuit television will help ensure that reliable evidence is presented and heard. Children should be protected in the court process in order to tell their story as easily, accurately and comprehensively as possible.

Testing for AIDS

In its *Report on Testing for AIDS*, the Ontario Law Reform Commission recommends that any HIV-related test be performed only with an individual's voluntary, specific, and informed consent. HIV-related tests are different from most standard blood tests because of the personal, social, and financial consequences of being identified as HIV-infected. In the absence of an effective treatment, and in the presence of a stigmatizing social understanding of AIDS and HIV infection, the most successful efforts to reduce the spread of infection should focus upon the public health strategy of encouraging individuals at risk to determine their serological status voluntarily, and to engage in risk-reducing behaviour. In the Commission's view, targeted public health education campaigns and programs, coupled with wide availability of voluntary HIV antibody testing, are the most effective means currently available to reduce HIV transmission. The Commission therefore opposes mandatory HIV-related testing programs, other than in relation to the use of blood or tissue donations or anonymous screening for research or epidemiological purposes.

The Commission believes that stringent confidentiality protection for all HIV-related information is essential not only to prevent the serious consequences that can arise from unwarranted disclosure, but also to encourage people at risk to come forward and to determine their HIV status voluntarily. Protection of information pertaining to HIV-related testing and treatment promotes society's interest in individual privacy and the public

health without impairing the community's right to be protected from the spread of disease. Accordingly, the Commission recommends that individuals should be able to test for HIV infection without being personally identified. Significant non-identifying medical and demographic information should continue to be reported to public health authorities.

The Commission views a well-functioning, voluntary, physician-centred partner notification scheme as an important part of sound HIV public health policy. The Commission proposes the implementation of a physician-centred program of partner notification, that would encourage patients to cooperate with their personal physicians in notifying partners. Under precisely defined guidelines, doctors should be able to notify identifiable, unsuspecting partners of HIV-infected patients who are at significant risk of infection. The Commission further proposes that both doctors and patients be given the option to seek the assistance of public health authorities in the notification process and that doctors who do notify partners should be protected against the potential for liability resulting from such responsibilities.

Finally, to ensure that HIV-related issues are dealt with in the most comprehensive manner possible, the Commission recommends the enactment of legislation, preferably an HIV-specific statute, to govern all substantive rules respecting HIV-related testing and the confidentiality of HIV-related information.

Public Inquiries

In its *Report on Public Inquiries,* the Ontario Law Reform Commission concludes that, while public inquiries should be retained, the law governing them should be reformed to protect individuals. Public inquiries have played an important role in the history of both the province and the country as a whole. Although their impact is difficult to judge, they have often dealt with the pressing concerns and controversies of the day, as well as many aspects of the longer term policy agenda. Public inquiries have become an important part of government, distinct from the Legislature, the executive, and the judiciary. However, the activities of two recent Ontario public inquiries have been shaped, and in one case terminated, by judicial proceedings raising questions about the utility and fairness of public inquiries.

The Commission observes that there are, in effect, two kinds of public inquiry; those dealing primarily with policy formulation, and those investigating wrong-doing. It is the latter kind of inquiry that impacts most seriously on a person's rights, and will therefore be most affected by the Commission's reform proposals.

In order to respond to concerns that have been expressed regarding public inquiries, the Commission makes a number of recommendations designed to minimize the prejudice and unfairness that results from the public inquiry process, without impairing the execution of their mandates. The Commission recommends, for example, that, subject to certain exceptions, everyone summoned to testify before a public inquiry should have a statutory right to refuse to testify on the grounds that such testimony might incriminate him or her. The Commission also recommends that where an inquiry believes that a person will be subject to serious allegations of misconduct in public proceedings of the inquiry, the inquiry should give the person notice of such allegations, and that a person receiving such a notice should have a right to respond.

The Commission also makes a number of recommendations that will recognize and protect the independence of public inquiries from the executive and the Legislature, facilitate public involvement, and enhance the effectiveness and efficiency of public inquiries, while respecting the need for fairness, independence and participation. Thus, the Commission recommends that if within thirty days of its delivery to the Lieutenant Governor in Council a commission's report has not been tabled in the Legislature or released to the public, the commission should have the right to release the report. The Commission further recommends that any individual or organization with a genuine interest in any matter relating to the subject matter of an inquiry should be entitled to make submissions.

The report consists of six chapters. In chapter 1 the Commission traces the development of the public inquiry as an important instrument of government in Canada and examines the policy role of public inquiries in comparison to alternative institutions.

In chapter 2 the Commission examines the present law of public inquiries in Ontario, including the statutory criteria for the appointment of inquiries, the drafting of an inquiry's terms of reference, the selection of commissioners, the independence of inquiries to conduct their own proceedings and release their own report, the procedure and evidentiary rules governing the conduct of inquiries (including the publicity and openness of hearings, standing, and notice), and the procedures for judicial review.

Chapter 3 deals with public inquiries and the Constitution. The first part of this chapter deals with the limits of Ontario's jurisdiction under the division of powers to appoint and conduct public inquiries. The second part of the chapter examines the effect of the legal rights in sections 7 and 13 of the Charter on the conduct of inquiries. Particular attention is paid to their effect on the powers in the Public Inquiries Act to summon and compel

testimony from individuals and the production of documents and other evidence.

In chapter 4 the case for reform is set out. This chapter includes a discussion of the criticisms that have been made of public inquiries. It also includes a discussion of the classification schemes that have been advanced, particularly the suggested distinction between advisory and investigative inquiries, as well as the various critiques that have been made of this distinction.

In chapter 5 certain law reform proposals and legislation of a number of other jurisdictions are surveyed.

Finally, in chapter 6, the major options for reform are outlined, as are the general principles that should guide reform.

Summary of Recommendations

This three volume work summarizes the Ontario Law Reform Commission's reports and recommendations since the Commission was created by the Ontario government in 1964. It is intended to make the work of the Commission more accessible to the public and to those interested in legal policy. This will be an ongoing service as reports are released.

B. Projects in Process

Adjudication of Workplace Disputes

This project is being directed by Professor Bernard Adell, of the Faculty of Law, Queen's University. The purpose is to see whether, in structure and process, the adjudication of workplace disputes is taking place as effectively and expeditiously as possible.

In its project, the Commission will examine the following: Labour Relations Board; grievance arbitration; *Employment Standards Act* referees; appeals conducted by the Director of Appeals under the *Occupational Health and Safety Act*; *Ontario Human Rights Code* boards of inquiry; the Pay Equity Commission; the Ontario Public Service Labour Relations Tribunal; and the Grievance Settlement Board.

In addition, the Commission's study will examine whether aspects of administrative law are in need of reform as they relate to workplace disputes adjudication.

The Law of Testing: Drug and Alcohol; Genetic and Psychological Testing

The Ontario Law Reform Commission has embarked on four studies of the law of testing. The Commission's *Report on AIDS Testing* was released during the year. The Commission continues to examine the areas of drug and alcohol, genetic, and psychological testing in a number of different contexts, like the workplace, schools, and other institutional settings. The projects will consider when and how to balance an individual's right to privacy and the public's right to information.

Coroners' Inquests

Originally, the Commission initiated a project on both inquiries under the *Public Inquiries Act* and inquests under the *Coroners Act*. Subsequently, however, it was decided to publish separate reports. Our *Report on Public Inquiries* was released during the past year, and work continues on the project on coroners' inquests. The project will examine the tension between pursuit of the public interest and, under certain circumstances, the protection of persons suspected of wrongdoing. The project Director is Professor Allan Manson, of the Faculty of Law, Queen's University.

Charities

Following a reference from the Attorney General, the Commission commenced a study of the law of charities in Ontario. The Project Director is Professor David Stevens, of the Faculty of Law, McGill University.

In this project, the Commission is examining the status, legal form, sources and uses of revenue, and supervision of charities. Among the specific issues canvassed are the following: (1) the type of activity that should benefit from the advantages accorded to charities; (2) whether organizations aimed at accomplishing political purposes should be considered charitable; (3) whether it is appropriate that charities be created by means of different legal forms (trusts, corporations, and unincorporated associations); (4) whether the investment powers of charities should be subject to restriction; (5) whether charities should be entitled to own for-profit organizations or to carry on

business directly; (6) whether charitable fundraising activities should be controlled; and (7) who should be responsible for regulating charities, and by what means.

Basic Principles of Land Law

Three research papers, containing recommendations for reform of the basic principles of land law, have been prepared and considered by the Commission over the course of the project. Professor T.G. Youdan, of Osgoode Hall Law School, York University, has been retained to prepare a report to the Commission dealing with future interests, co-ownership, and easements.

Equity and Equality

This study paper will explore the interrelationship between the concept of equality and special equity programs. Recently, there has been a series of legal challenges to programs aimed at redressing various forms of systemic discrimination. These cases have involved the interpretation of section 15(2) of the *Canadian Charter of Rights and Freedoms* and/or the exemption provisions for special programs in human rights legislation. One of the major sources of confusion derives from continued adherence to a formal understanding of equality that conceptualizes equity programs as exceptions rather than expressions of equality.

This study paper is being prepared by Professor Colleen Sheppard, of the Faculty of Law, McGill University.

Powers of the Ontario Film Review Board

The project will focus on the approval and classification powers of the Ontario Film Review Board pursuant to Ontario's *Theatres Act*. It will briefly examine the history of the Board, within the context of the broader historical evolution of film classification and censorship in Canada and other jurisdictions. It will discuss the purposes animating the institution and continuation of the Board, and analyze whether these purposes are met by both the theory and practices of the Board. A constitutional analysis of the Board's approval and classification functions will also be undertaken. The report will conclude with proposals for reform to the Act as necessary.

The Retroactive Operation of Judgments

The recent decision of the Supreme Court of Canada in *De Savoye v. Morguard Investments Ltd.* changed the law relating to the enforcement of foreign judgments. The British Columbia Supreme Court in *Clarke v. Lo Bianco* reinforced the Supreme Court's decision, but in doing so, highlighted a problem implicit in the decision. In this project, the Commission examines the issue of the retroactive operation of judgments. At issue is the hardship that might be caused to a defendant because of a change in the law occurring after reasonable reliance was placed on the previous law. The study will consider the range of possible responses to the problem, including statutory directions, judicially developed suggestions, and tools such as special costs rules. The Project Director is John Swan, of the Ontario Bar.

APPENDIX A

REPORTS OF THE ONTARIO LAW REFORM COMMISSION

Title	Date of Report
Report No. 1 [The Rule Against Perpetuities]	1965
Report No. 1A: The Perpetuities Act, 1965 [Supplementary Report on the Rule Against Perpetuities]	1966
Report No. 2 [The Wages Act: Assignment of Wages]	1965
Report No. 3 on Personal Property Security Legislation	1965
Report No. 3A on Personal Property Security Legislation	1966
Report on The Evidence Act: Admissibility of Business Records	1966
Report on The Mechanics' Lien Act	1966
Supplementary Report on The Mechanics' Lien Act	1967
Report on the Proposed Extension of Guarantor's Liability on Construction Bonds	1966
Report on The Execution Act: Exemption of Goods from Seizure	1966
Report on the Law of Condominium	1967
Report on the Basis for Compensation on Expropriation	1967
Report on the Limitation Period for Actions under The Sandwich, Windsor and Amherstburg Railway Act, 1930	1968
Annual Report 1967	1968
Report on Certain Aspects of the Proposed Divorce Legislation Contained in Bill C-187	1968
Report on the Proposed Adoption in Ontario of The Uniform Wills Act	1968
Report on The Protection of Privacy in Ontario	1968
Report on Section 183 of The Insurance Act	1968
Report on Trade Sale of New Houses	1968
Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies	1968

Title	Date of Report
Report on the Limitation of Actions	1969
Second Annual Report 1968	1969
Report on the Age of Majority and Related Matters	1969
Report on the Status of Adopted Children	1969
Report on Family Law, Part I: Torts	1969
Report on Section 20 The Mortgages Act	1970
Report on Family Law, Part II: Marriage	1970
Third Annual Report 1969	1970
Report on Actions Against Representatives of Deceased Persons	1970
Report on the Coroner System in Ontario	1971
Report on Sunday Observance Legislation	1971
Report on Land Registration	1971
Fourth Annual Report 1970	1971
Report on The Change of Name Act	1971
Report on The Mortgages Act, Section 16	1971
Report on Development Control	1971
Report on Powers of Attorney	1972
Report on Occupiers' Liability	1972
Report on Consumer Warranties and Guarantees in the Sale of Goods	1972
Report on Review of Part IV of The Landlord and Tenant Act	1972
Fifth Annual Report 1971	1972
Report on the Non-Possessory Repairman's Lien	1972
Report on the Administration of Ontario Courts, Part I	1973
Sixth Annual Report 1972	1973
Report on the Administration of Ontario Courts, Part II	1973
Report on Family Law, Part III: Children	1973
Report on The Solicitors Act	1973
Report on Motor Vehicle Accident Compensation	1973
Report on the Administration of Ontario Courts, Part III	1973
Report on Family Law, Part IV: Family Property Law	1974

Title	Date of Report
Report on Family Law, Part V: Family Courts	1974
Seventh Annual Report 1973	1974
Report on the International Convention Providing a Uniform Law on the Form of the International Will	1974
Eighth Annual Report 1974	1975
Report on Family Law, Part VI: Support Obligations	1975
Report on Mortmain, Charitable Uses and Religious Institutions	1976
Report on Landlord and Tenant Law	1976
Report on the Law of Evidence	1976
Ninth Annual Report 1975	1976
Report on Changes of Name	1976
Report on the Impact of Divorce on Existing Wills	1977
Tenth Annual Report 1976	1977
Eleventh Annual Report 1977	1978
Report on Sale of Goods	1979
Twelfth Annual Report 1978	1979
Report on Products Liability	1979
Thirteenth Annual Report 1979	1980
Report on the Enforcement of Judgment Debts and Related Matters, Part I	1981
Report on the Enforcement of Judgment Debts and Related Matters, Part II	1981
Report on the Enforcement of Judgment Debts and Related Matters, Part III	1981
Fourteenth Annual Report 1980-81	1981
Report on Witnesses Before Legislative Committees	1981
Report on Class Actions	1982
Fifteenth Annual Report 1981-82	1982
Report on the Enforcement of Judgment Debts and Related Matters, Part IV	1983
Report on the Enforcement of Judgment Debts and Related Matters, Part V	1983
Report on Powers of Entry	1983
Sixteenth Annual Report 1982-83	1983
Report on the Law of Trusts	1983
Seventeenth Annual Report 1983-84	1984

Title	Date of Report
Report on Human Artificial Reproduction and Related Matters	1985
Twentieth Anniversary Report 1984-85	1985
Twenty-First Annual Report 1985-86	1986
Report on Political Activity, Public Comment and Disclosure by Crown Employees	1986
Report on Amendment of the Law of Contract	1987
Report on the Law of Mortgages	1987
Twenty-Second Annual Report	1987
Report on Compensation for Personal Injuries and Death	1987
Report on Contribution Among Wrongdoers and Contributory Negligence	1988
Report on Timesharing	1988
Twenty-Third Annual Report 1987-88	1988
Study Paper on Wrongful Interference with Goods	1989
Report on the Law of Standing	1989
Report on Covenants Affecting Freehold Land	1989
Report on Liability of the Crown	1989
Report on Damages for Environmental Harm	1990
Report on the Basis of Liability for Provincial Offences	1990
Report on Administration of Estates of Deceased Persons	1991
Report on Exemplary Damages	1991
1991 Ontario Law Reform Commission Report	1991
Appointing Judges: Philosophy, Politics and Practice	1991
Report on Child Witnesses	1991
Report on Testing for AIDS	1992
Report on Public Inquiries	1992
Summary of Recommendations	1992
Annual Report 1991-92	1992

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APPENDIX B

IMPLEMENTATION OF THE REPORTS OF THE ONTARIO LAW REFORM COMMISSION

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report No. 1 [The Rule Against Perpetuities]	1965	*The Perpetuities Act, 1966*, S.O. 1966, c. 113
Report No. 1A: The Perpetuities Act, 1965 [Supplementary Report on the Rule Against Perpetuities]	1966	*do.*
Report No. 2 [The Wages Act: Assignment of Wages]	1965	*The Wages Amendment Act, 1968*, S.O. 1968, c. 142
Report No. 3 on Personal Property Security Legislation	1965	*The Personal Property Security Act, 1967*, S.O. 1967, c. 72
Report No. 3A on Personal Property Security Legislation	1966	*do.*
Report on The Evidence Act: Admissibility of Business Records	1966	*The Evidence Amendment Act, 1966*, S.O. 1966, c. 51, s. 1
Report on The Mechanics' Lien Act	1966	*The Mechanics' Lien Act, 1968-69*, S.O. 1968-69, c. 65
Supplementary Report on The Mechanics' Lien Act	1967	*do.*
Report on the Proposed Extension of Guarantor's Liability on Construction Bonds	1966	See *The Mechanics' Lien Amendment Act, 1975*, S.O. 1975, c. 43 *The Ministry of Transportation and Communications Creditors Payment Act, 1975*, S.O. 1975, c. 44 *The Public Works Creditors Payment Repeal Act, 1975*, S.O. 1975, c. 45
Report on The Execution Act: Exemption of Goods from Seizure	1966	*The Execution Amendment Act, 1967*, S.O. 1967, c. 26
Report on the Law of Condominium	1967	*The Condominium Act, 1967*, S.O. 1967, c. 13

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report on the Basis for Compensation on Expropriation	1967	*The Expropriations Act, 1968-69*, S.O. 1968-69, c. 36
Report on the Limitation Period for Actions under The Sandwich, Windsor and Amherstburg Railway Act, 1930	1968	*The Sandwich Windsor and Amherstburg Railway Amendment Act, 1968*, S.O. 1968, c. 120
Report on Certain Aspects of the Proposed Divorce Legislation Contained in Bill C-187	1968	*Divorce Act*, S.C. 1967-68, c. 24, s. 26
Report on the Proposed Adoption in Ontario of The Uniform Wills Act	1968	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40 See *The Registry Amendment Act, 1978*, S.O. 1978, c. 8, s. 1
Report on The Protection of Privacy in Ontario	1968	See *The Consumer Reporting Act, 1973*, S.O. 1973, c. 97
Report on Trade Sale of New Houses	1968	See *The Ontario New Home Warranties Plan Act, 1976*, S.O. 1976, c. 52
Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies	1968	*The Landlord and Tenant Amendment Act, 1968-69*, S.O. 1968-69, c. 58
Report on Limitation of Actions	1969	See *The Highway Traffic Amendment Act (No. 2), 1975*, S.O. 1975, c. 37 *The Fatal Accidents Amendment Act, 1975*, S.O. 1975, c. 38 *The Trustee Amendment Act, 1975*, S.O. 1975, c. 39
Report on the Age of Majority and Related Matters	1969	*The Age of Majority and Accountability Act, 1971*, S.O. 1971, c. 98
Report on the Status of Adopted Children	1969	*The Child Welfare Amendment Act, 1970*, S.O. 1970, c. 96, s. 23

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report on Family Law, Part I: Torts	1969	*The Family Law Reform Act, 1978*, S.O. 1978, c. 2 (partial implementation)
Report on Section 20 of The Mortgages Act	1970	*The Mortgages Amendment Act, 1970*, S.O. 1970, c. 54, s. 1
Report on Family Law, Part II: Marriage	1970	*The Civil Rights Statute Law Amendment Act, 1971*, S.O. 1971, c. 50, s. 55 (partial implementation)
		The Marriage Act, 1977, S.O. 1977, c. 42
Report on Actions Against Representatives of Deceased Persons	1970	*The Trustee Amendment Act, 1971*, S.O. 1971, c. 32, s. 2
Report on the Coroner System in Ontario	1971	*The Coroners Act, 1972*, S.O. 1972, c. 98
Report on Sunday Observance Legislation	1971	*The Retail Business Holidays Act, 1975*, S.O. 1975 (2nd Session), c. 9
		Courts of Justice Act, 1984, S.O. 1984, c. 11, s. 134
Report on Land Registration	1971	See *The Corporations Tax Amendment Act (No. 2), 1979*, S.O. 1979, c. 89
		Land Registration Reform Act, 1984, S.O. 1984, c. 32
Report on The Change of Name Act	1971	*The Change of Name Amendment Act, 1972*, S.O. 1972, c. 44
		Change of Name Act, 1986, S.O. 1986, c. 7
Report on Development Control	1971	*The Planning Amendment Act, 1973*, S.O. 1973, c. 168, s. 10
Report on Powers of Attorney	1972	*The Powers of Attorney Act, 1979*, S.O. 1979, c. 107
		Powers of Attorney Amendment Act, 1983, S.O. 1983, c. 74

Title	Date of Report	Original Legislation Concerning Commission Proposals
		Mental Health Amendment Act, 1983, c. 75
Report on Occupiers' Liability	1972	*The Occupiers' Liability Act, 1980*, S.O. 1980, c. 14
Report on Review of Part IV of The Landlord and Tenant Act	1972	*The Landlord and Tenant Amendment Act, 1972*, S.O. 1972, c. 123
Report on the Non-Possessory Repairman's Lien	1972	*Repair and Storage Liens Act, 1989*, S.O. 1989, c. 17 (partial implementation)
Report on the Administration of Ontario Courts, Part I	1973	See *The Administration of Courts Project Act, 1975*, S.O. 1975, c. 31
		The Judicature Amendment Act (No. 2), 1977, S.O. 1977, c. 51, s. 9
		Courts of Justice Act, 1984, S.O. 1984, c. 11, ss. 19 and 25
Report on the Administration of Ontario Courts, Part II	1973	*Courts of Justice Act, 1984*, S.O. 1984, c. 11, s. 162
		See *The Administration of Courts Project Act, 1975*, S.O. 1975, c. 31
Report on Family Law, Part III: Children	1973	*The Child Welfare Amendment Act, 1975*, S.O. 1975, c. 1 (partial implementation)
		The Succession Law Reform Act, 1977, S.O. 1977, c. 40 (partial implementation)
		The Children's Law Reform Act, 1977, S.O. 1977, c. 41 (partial implementation)
		See *Children's Law Reform Amendment Act, 1982*, S.O. 1982, c. 20
Report on The Solicitors Act	1973	*Courts of Justice Act, 1984*, S.O. 1984, c. 11, s. 214(6)

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report on the Administration of Ontario Courts, Part III	1973	*The Judicature Amendment Act, 1975*, S.O. 1975, c. 30 (partial implementation) See *The Administration of Courts Project Act, 1975*, S.O. 1975, c. 31 *The Small Claims Courts Amendment Act, 1977*, S.O. 1977, c. 52 (partial implementation)
Report on Family Law, Part IV: Family Property Law	1974	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40 (partial implementation) *The Family Law Reform Act, 1978*, S.O. 1978, c. 2 (partial implementation) *Family Law Act, 1986*, S.O. 1986, c. 4 (partial implementation) See *The Land Titles Amendment Act, 1978*, S.O. 1978, c. 7 *The Registry Amendment Act, 1978*, S.O. 1978, c. 8
Report on Family Law, Part V: Family Courts	1974	See *The Unified Family Court Act, 1976*, S.O. 1976, c. 85 *The Children's Probation Act, 1978*, S.O. 1978, c. 41 (partial implementation)
Report on the International Convention Providing a Uniform Law on the Form of the International Will	1974	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40, s. 42
Report on Family Law, Part VI: Support Obligations	1975	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40 (partial implementation)

Title	Date of Report	Original Legislation Concerning Commission Proposals
		The Family Law Reform Act, 1978, S.O. 1978, c. 2
Report on Mortmain, Charitable Uses and Religious Institutions	1976	*The Religious Organizations' Lands Act, 1979*, S.O. 1979, c. 45
		The Anglican Church of Canada Act, 1979, S.O. 1979, c. 46
		The Registry Amendment Act, 1979, S.O. 1979, c. 94, s. 17
		Charities Accounting Amendment Act, 1982, S.O. 1982, c. 11
		Mortmain and Charitable Uses Repeal Act, 1982, S.O. 1982, c. 12, s. 1(1)
Report on Landlord and Tenant Law	1976	*The Residential Tenancies Act, 1979*, S.O. 1979, c. 78 (partial implementation)
Report on Changes of Name	1976	*The Change of Name Amendment Act, 1978*, S.O. 1978, c. 28
		The Vital Statistics Amendment Act, 1978, S.O. 1978, c. 81, s. 1 (partial implementation)
		Change of Name Act, 1986, S.O. 1986, c. 7 (partial implementation)
		Vital Statistics Amendment Act, 1986, S.O. 1986, c. 9 (partial implementation)
Report on the Impact of Divorce on Existing Wills	1977	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40, s. 17(2)
Report on the Enforcement of Judgment Debts and Related Matters, Part II	1981	*Wages Amendment Act, 1983*, S.O. 1983, c. 68 (partial implementation)
		Proceedings Against the Crown Amendment Act, 1983, S.O. 1983, c. 88

Title	Date of Report	Original Legislation Concerning Commission Proposals
		Courts of Justice Act, 1984, S.O. 1984, c. 11, s. 177 (partial implementation)
		Rules of Civil Procedure, O. Reg. 560/84, r. 60 (partial implementation)
Report on the Enforcement of Judgment Debts and Related Matters, Part III	1981	Rules of Civil Procedure, O. Reg. 560/84, r. 60.07(16) and (17)
Report on the Enforcement of Judgment Debts and Related Matters, Part V	1983	*Creditors' Relief Amendment Act, 1985*, S.O. 1985, c. 1 (partial implementation)
Report on Compensation for Personal Injuries and Death	1987	*Courts of Justice Amendment Act, 1989*, S.O. 1989, c. 67 (partial implementation)

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APPENDIX C

ROUNDTABLE DISCUSSIONS OF THE ONTARIO LAW REFORM COMMISSION

In 1991, the Ontario Law Reform Commission inaugurated a series of Roundtable discussions to examine various issues in law and social policy reform. The purpose of these discussions is to foster debate on adapting Ontario's law and legal system to the challenges of contemporary social developments. To this end, people with expertise and experience in a variety of areas are brought together to explore and debate legal policy in Ontario. During the past year, the Commission held five Roundtable discussions, discussed below.

Streamlining the Civil Litigation Process

The Commission held its first Roundtable discussion on May 16, 1991. The discussion, which was based on a paper prepared by Alan Lenczner, Q.C., concerned methods of streamlining the civil litigation process. From both the paper and the discussion that followed, it was generally agreed that, under the present civil litigation process, cases take too long to get to trial, and are too expensive for most clients. As a result, a number of people have been, and are being, deprived of access to court. In addition to various specific recommendations, it was recommended that lawyers proceed within certain time periods, thus ensuring that most cases would reach trial within the times set by the process. This Roundtable discussion was attended by the following: Peter Atkinson; Professor Carl Baar; Thomas Bastedo; Sheila Block; Brian Bellmore; Paul Cavalluzo; His Honour Judge James Chadwick; Linda Dranoff; Stephen Goudge, Q.C.; The Honourable Mr. Justice John Jennings; John I. Laskin; Alan Lenczner, Q.C.; Patty McQuigan; Anne Molloy; Eric Murray; Professor Kent Roach; Harriet Sachs; Sandra Simpson; James Spence; Harvey Strosberg, Q.C.; Gary Watson, Q.C.; and Janet Wilson.

Aspects of Law Reform

The Commission's second Roundtable discussion, focussing on aspects of law reform, was held on September 12, 1991, in honour of Madam Justice Bertha Wilson. It was argued that law can never be completely free from politics, and it was suggested that, although the Ontario Law Reform

Commission makes legal recommendations only, these recommendations can never be free of a socio-political context. The Roundtable explored the origins, implementation and function of legal reforms with a multi-disciplinary group of people. The following persons attended this Roundtable: Michael Adams; Professor Alfred W. Blumrosen; Professor Thomas Cowan; Robert Fulford; Anne Golden; Professor Donna Greschner; Professor Allan C. Hutchinson; Stien K. Lal; Professor Roderick A. Macdonald; The Honourable Flora MacDonald; Carlton A. Masters; Maureen O'Neil; The Honourable Melvin L. Rothman; Haroon Siddiqui; Helen Sinclair; Elaine Todres; and The Honourable Bertha Wilson.

Role of Legal Clinics

At a Roundtable discussion held on October 28, 1991, the role and functions of legal clinics were discussed in order to determine the future of legal clinics. It was generally recognized that legal clinics provide a useful service to the community, although their usefulness is diminished somewhat by their limited resources and by their heavy case-load. It was also generally agreed that all three types of clinic – those that provide a general case by case service, those that provide a specialized service on a case by case basis, and those that provide access to a variety of professional services – have their function and should continue to exist. But a consensus emerged that the most effective kind of legal clinic was one that was multi-service, and provided access to health, social work as well as legal services. This Roundtable discussion was attended by the following: Lenny Abramowicz; Robert Armstrong; Annie Bunting; Shelley Cuthbertson; Philip Epstein, Q.C.; Douglas J. Ewart; Cathy Fooks; The Honourable Mr. Justice S. Grange; Judith Keene; Joanna Kuras; Her Honour Judge Marion E. Lane; Donald C. MacDonald; Joan Milling; Rob Milling; Janet Mosher; Professor Joanne St. Lewis; James M. Spence, Q.C.; Andrea Walker; and Professor Fred Zemans.

Arts, Culture and the Constitution

The subject of the Roundtable discussion held on December 12, 1991, was the role of the arts and culture in the context of the Constitution. This discussion was about the importance of preserving and promoting the arts in Canada and what governmental arrangements could best achieve their diverse expansion. It was agreed that the best funding system would be one in which both the federal and provincial governments have the ability to provide funding, and in which all funding takes place in an arms-length environment. The following persons attended this Roundtable: Catherine

Allman; Garry Conway; Susan Crean; Professor Nathalie Des Rosiers; Robert Fulford; Michal Ben-Gera; Sheila Greenspan; Marion Hebb; Peter Herrndorf; Diane Leblanc; Trina McQueen; Charles Pachter; David Parsons; Professor Marilyn L. Pilkington; Tim Porteous; Angela Rebeiro; Gwen Setterfield; Cathy Smalley; Jini Stolk; John Terry; Dr. Ronald Watts; Professor Lorraine Weinrib; Professor John Weinzweig; and Joyce Zemans.

Implications of a Social Charter in a New Constitution

On January 30, 1992, the Commission held a Roundtable discussion to consider the implications of the entrenchment of a social charter in the Constitution. It was the general opinion of the participants that this issue arose primarily to ensure that the social structure of Canada survives. The participants discussed the form that a social charter should take, and whether it should be enforceable against the government, or merely a statement of principle. The following persons attended this discussion: Michal Ben-Gera; Professor David Cameron; Orville Endicott; Cathy Fooks; John Foster; Professor Rob Howse; Professor David Hulchanski; Professor Martha Jackman; Professor Jane Jenson; Brian Kelsey; Diane Mandell; Professor Errol Mendes; Penny Moss; Angelo Nikias; Bruce Porter; Judy Rebick; Barbara Rutherford; Professor Craig Scott; and John Terry.

APPENDIX D

JUDICIAL AND ACADEMIC REFERENCES TO REPORTS OF THE ONTARIO LAW REFORM COMMISSION*

Report No. 1 [The Rule Against Perpetuities] (1965)

Sutherland Estate v. Dyer (1991), 4 O.R. (3d) 168, 82 D.L.R. (4th) 432
Re Tilbury West Public School Board and Hastie, [1966] 2 O.R. 20

Report No. 1A: The Perpetuities Act, 1965 [Supplementary Report on the Rule Against Perpetuities]

Sutherland Estate v. Dyer (1991), 4 O.R. (3d) 168, 82 D.L.R. (4th) 432

Report No. 3 on Personal Property Security Legislation (1965)

Harvey Hubbell Canada Inc. v. Thornhurst Corp. (1989), 69 O.R. (2d) 53
Bank of Nova Scotia v. McIvor (1986), 57 O.R. (2d) 501

Report on The Mechanics' Lien Act (1966)

National Defence Credit Union Ltd. v. Labine, [1987] O.J. No. 1366
George Wimpey Canada Ltd. v. Peelton Hills Ltd. (1982), 35 O.R. (2d) 787, 132 D.L.R. (3d) 732
Otis Elevator Co. Ltd. v. Commonwealth Holiday Inns of Canada Ltd. (1975), 8 O.R. (2d) 297, 57 D.L.R. (3d) 681

Supplementary Report on The Mechanics' Lien Act (1967)

George Wimpey Canada Ltd. v. Peelton Hills Ltd. (1982), 35 O.R. (2d) 787, 132 D.L.R. (3d) 732

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* This is a non-exhaustive list of articles and cases in which the Commission's reports have been reviewed or cited.

Report on The Law of Condominium (1967)

Re 511666 Ontario Ltd. and Confederation Life Insurance Co. (1985), 50 O.R. (2d) 181

Frontenac Condominium Corp. No. 1 v. Joe Macciocchi & Sons Ltd. (1974), 3 O.R. (2d) 331, 45 D.L.R. (3d) 347

Re Lambert Island Ltd. and Attorney-General of Ontario, [1972] 2 O.R. 659, 26 D.L.R. (3d) 391

Report on the Basis for Compensation on Expropriation (1967)

Re City of Windsor and Larsen (1980), 29 O.R. (2d) 669, 114 D.L.R. (3d) 477

Re Laidlaw and Municipality of Metropolitan Toronto, [1978] 2 S.C.R. 736, 87 D.L.R. (3d) 161

Report on the Proposed Adoption in Ontario of The Uniform Wills Act (1968)

Re Nicholls (1987), 57 O.R. (2d) 763, 34 D.L.R. (4th) 321

Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies (1968)

Re Boyd and Earl & Jennie Lohn Ltd. (1984), 47 O.R. (2d) 111, 11 D.L.R. (4th) 265

Reference re Residential Tenancies Act (1980), 26 O.R. (2d) 609, 105 D.L.R. (3d) 193

Gaul v. King (1979), 33 N.S.R. (2d) 60

Report on Limitation of Actions (1969)

McEvoy, Case Comment on *Clark v. Naqvi* (1989), 99 N.B.R. (2d) 271, 250 A.P.R. 271, (1990), 104 N.B.R. (2d), 261 A.P.R. 237

Murphy v. Welsh (1991), 3 O.R. (3d) 182, 81 D.L.R. (4th) 475

Ontario Teachers' Pension Plan Board v. York University (1990), 74 O.R. (2d) 714, 72 D.L.R. (4th) 253

Lee v. Ontario (Minister of Transportation & Communications) (1990), 72 O.R. (2d) 343

Comite d'environnement de La Baie Inc. v. Societe d'electrolyse et de chimie Alcan Ltee. (1990), 29 Q.A.C. 251

Hart v. Hart (1990), 27 R.F.L. (3d) 419, [1990] O.J. No. 1498
West End Construction Ltd. v. Ontario Human Rights Commission (1989), 62 D.L.R. (4th) 329, 70 O.R. (2d) 133
Alberta v. Buys (1989), 59 D.L.R. (4th) 677
Cementation Co. (Canada) v. American Home Assurance Co., [1989] B.C.J. No. 1048
Colangelo v. Mississauga (City) (1988), 66 O.R. (2d) 29
Radelja v. Canadian General Insurance Co. (1988), 29 C.C.L.I. 168
Bank of Nova Scotia v. Dunphy Leasing Enterprises Ltd. (1987), 38 D.L.R. (4th) 575
Streng v. Township of Winchester (1986), 56 O.R. (2d) 649, 31 D.L.R. (4th) 734
Re West End Construction Ltd. and Ministry of Labour for Ontario (1986), 57 O.R. (2d) 391, 33 D.L.R. (4th) 285
C.C. Fraser Building Supplies Ltd. v. Ontario Hydro (1986), 55 O.R. (2d) 32, 28 D.L.R. (4th) 557
Re Walker and Bostwick (1986), 34 D.L.R. (4th) 310
Public Trustee v. Mortimer (1985), 49 O.R. (2d) 741
Morley v. Wiggins (1985), 49 O.R. (2d) 136, 7 O.A.C. 324
Moffett v. Farnsworth (1984), 47 O.R. (2d) 620, 12 D.L.R. (4th) 101
Ranjoy Sales and Leasing Ltd. v. Deloitte, Haskins & Sells (1984), 31 Man. R. (2d) 87, [1985] 2 W.W.R. 534
Schenck v. The Queen in right of Ontario; Rokeby v. The Queen in right of Ontario (1983), 40 O.R. (2d) 410, 142 D.L.R. (3d) 261
Sydney Steel Corporation v. Al E. & C. Limited and Dresser Canada Inc. (1983), 58 N.S.R. (2d) 369, 123 A.P.R. 369
Central Trust Company v. Rafuse and Cordon (1983), 57 N.S.R. (2d) 125, 147 D.L.R. (3d) 360
Morgan v. Superintendent of Winnipeg Remand Centre, [1983] 3 W.W.R. 542
Duffin v. Mehagan; Lipton v. Mehagan (1982), 35 O.R. (2d) 563
Re Palermo Bakery Ltd. and Dominion of Canada General Insurance Co. (1976), 12 O.R. (2d) 50
Attorney-General for Ontario v. Watkins (1975), 8 O.R. (2d) 513, 58 D.L.R. (3d) 260

Report on the Age of Majority and Related Matters (1969)

Eccles v. Van Duin (1978), 19 O.R. (2d) 37, 84 D.L.R. (3d) 406
Clark v. Clark, [1971] 1 O.R. 674, 16 D.L.R. (3d) 376
Wood v. Wood, [1971] 1 O.R. 731, 16 D.L.R. (3d) 497

Report on Family Law, Part I: Torts (1969)

Szarfer v. Chodos (1988), 66 O.R. (2d) 350
Frame v. Smith, [1987] 2 S.C.R. 99, 42 D.L.R. (4th) 81
Szarfer v. Chodos (1986), 54 O.R. (2d) 663, 27 D.L.R. (4th) 338
Schrenk v. Schrenk (1982), 36 O.R. (2d) 480
Hartwick v. MacIntyre (1982), 35 O.R. (2d) 119, 131 D.L.R. (3d) 333
Manning v. Howard (1976), 8 O.R. (2d) 728
Canestraro v. Larade, [1972] 3 O.R. 382, (1972), 28 D.L.R. (3d) 290

Report on Family Law, Part II: Marriage (1970)

S.(A.) v. S.(A.) (1988), 65 O.R. (2d) 720

Report on the Coroner System in Ontario (1971)

People First of Ontario v. Porter (1991), 5 O.R. (3d) 609, 85 D.L.R. (4th) 174
Kingston Penitentiary (Range Representative on Administrative Segregation) v. Regional Coroner (Eastern Ontario) (1989), 33 O.A.C. 241

Report on Sunday Observance Legislation (1971)

Coles Book Stores Ltd. v. The Queen in Right of Ontario, [1992] O.J. No. 124
Re Regional Municipality of Peel and Great Atlantic & Pacific Co. of Canada Ltd. (1990), 73 O.R. (2d) 289, 71 D.L.R. (4th) 293, rev'd (1991), 2 O.R. (3d) 65
R. v. Paul Magder Furs Ltd. (1989), 69 O.R. (2d) 172, 49 C.C.C. (3d) 267
The Queen v. Westfair Foods Ltd. (1989), 80 Sask. R. 33, 65 D.L.R. (4th) 56
Regina v. Rice (1989), 49 C.C.C. (3d) 1, 7 W.C.B. (2d) 120
R. v. Paul Magder Furs Ltd., [1988] O.J. No. 589
Re McFarland (1987), 60 O.R. (2d) 73, 39 D.L.R. (4th) 703
McKinney v. University of Guelph (1987), 63 O.R. (2d) 1, 46 D.L.R. (4th) 193
Edwards Books and Art Ltd. v. The Queen, [1986] 2 S.C.R. 713, 35 D.L.R. (4th) 1
Regina v. Morgentaler (1984), 47 O.R. (2d) 353
Regina v. Videoflicks Ltd. (1984), 48 O.R. (2d) 395, 58 O.R. (2d) 442n
Regina v. Magder (1983), 41 O.R. (2d) 281

R. v. Big M. Drug Mart Ltd., [1983] 4 W.W.R. 54, [1984] 1 W.W.R. 625, 49 A.R. 194

Report on Land Registration (1971)

Dominion Stores Ltd. v. United Trust Company, [1977] 2 S.C.R. 915, 71 D.L.R. (3d) 72

Report on The Mortgages Act, Section 16 (1971)

Potash v. Royal Trust Company, [1986] 2 S.C.R. 351, 31 D.L.R. (4th) 321
Turner v. Royal Trust Corporation of Canada, [1986] 2 W.W.R. 655
Potash v. Royal Trust Company (1984), 28 Man. R. (2d) 1, 8 D.L.R. (4th) 459

Report on Occupiers' Liability (1972)

Waldick v. Malcolm, [1991] 2 S.C.R. 456, 83 D.L.R. (4th) 114
Waldick v. Malcolm (1989), 70 O.R. (2d) 717, 63 D.L.R. (4th) 583
Colangelo v. Mississauga (City) (1988), 66 O.R. (2d), 53 D.L.R. (4th) 283
Waldick v. Malcolm (1987), 61 O.R. (2d) 624, 43 D.L.R. (4th) 693
Bartlett v. Weiche Apartments Ltd. (1975), 7 O.R. (2d) 263, 55 D.L.R. (3d) 44

Report on Review of Part IV of the Landlord and Tenant Act (1972)

Re Quann and Pajelle Investments Limited (1975), 7 O.R. (2d) 769
Re Pajelle Investments Ltd. and Booth (No. 2) (1975), 7 O.R. (2d) 229

Report on the Administration of Ontario Courts, Part I (1973)

R. v. Davies (1990), 56 C.C.C. (3d) 321, 10 W.C.B. (2d) 52
R. v. O'Donnell, [1988] O.J. No. 2425
Re MacBride and MacBride (1986), 58 O.R. (2d) 230, 35 D.L.R. (4th) 115
Reference re Justices of the Peace Act (1984), 48 O.R. (2d) 609

Report on the Administration of Ontario Courts, Part II (1973)

R. v. Luz, [1988] O.J. No. 1996

Report on Family Law, Part III: Children (1973)

R. v. Farbotnik (1987), 81 A.R. 224
Husband v. Husband (1987), 7 R.F.L. (3d) 380
Bagaric v. Juric (1984), 2 O.A.C. 35
R. v. Enkirch, [1983] 1 W.W.R. 530, 142 D.L.R. (3d) 490
Abbey v. Abbey (1977), 28 R.F.L. 222
Re Helmes (1977), 13 O.R. (2d) 4
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APPENDIX E

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APPENDIX F

GROUPS AND ORGANIZATIONS CONSULTED BY THE ONTARIO LAW REFORM COMMISSION

In its projects, the Ontario Law Reform Commission consults regularly with members of the Bench, the Bar, the academic community, provincial and federal government ministries and agencies, and various persons, organizations and governmental institutions in other jurisdictions. In addition to the foregoing, during 1991-92 the Commission consulted with a wide range of groups and organizations, including the following:

Addiction Research Foundation

Adjudication Services Limited

Advocacy Resource Centre for the Handicapped

AIDS Action Now!

The AIDS Committee of Ottawa

AIDS Committee of Toronto

Association of Local Official Health Agencies

Barb Butler & Associates

Canadian Auto Workers

Canadian Civil Liberties Association

Canadian Human Rights Commission

Canadian Labour Congress

Canadian Medical Association

Chief Coroner of New Brunswick

Chief Coroner of Ontario

Chief Medical Examiner of Alberta

Chief Medical Examiner of Manitoba

Educational Testing Services

Employment Equity Commissioner

Federal Centre for AIDS

Haemophilia Services

Hassle Free Clinic

Imperial Oil Limited

Information and Privacy Commissioner/Ontario

McGill Centre for Medicine, Ethics and Law

Ontario Hospital Association

Ontario Human Rights Commission

Ontario Medical Association

Pay Equity Commission

Pay Equity Hearings Tribunal

Privacy Commissioner of Canada

Quebec Human Rights Commission

Toronto-Dominion Bank

APPENDIX G

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Counsel	J. Jody Morrison, BA (Hon), LLB, LLM Ronda F. Bessner, BA (Hon), BCL, LLB, LLM Christine B. Henderson, BA, LLB Lisa Brownstone, BA, LLB, LLM Donald F. Bur, LLB, LLM, BCL, PhD Larry M. Fox, LLB, Senior Counsel, is on secondment to the Policy Development Division, Ministry of the Attorney General, until March 31, 1993.
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Administrative Assistant	Annetta Charles, BA
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Secretary to Chief Administrator	Mary M. O'Hara
Secretaries to Counsel	D. M. Halyburton Cora Calixterio Sharon Hattori
Receptionist	Trina Richard, BA (Hon)

The past year has seen a number of significant changes in the staff of the Ontario Law Reform Commission. Departing from the Commission during the year were Melvin A. Springman, General Counsel and Director of Research; Judith A. Bellis, Counsel; Mordechai Ben-Dat, Counsel; Anne McGarrigle, Secretary and Administrative Officer; Beverley G. Woodley, Administrative Assistant; and Christopher Hughes, Librarian. The Commission wishes to express its appreciation to each of these individuals for their dedication and their contribution to the work of the Commission. The Commission wishes to record its particular appreciation to Mr. Springman for his many years of devoted service to the Commission.

RAPPORT ANNUEL 1991-92

COMMISSION DE RÉFORME DU DROIT DE L'ONTARIO

1992

La Commission de réforme du droit de l'Ontario a été constituée par le gouvernement de l'Ontario en 1964 en tant qu'institut de recherche juridique indépendant. C'était la première commission du genre au sein du Commonwealth. Elle a pour mandat de proposer des réformes dans les domaines suivants: lois, common law, jurisprudence, procédures judiciaires et quasi-judiciaires et autres questions touchant l'administration de la justice en Ontario.

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Ce rapport est aussi disponible en anglais.

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Commission de Réforme du Droit de L'Ontario

Au procureur général de l'Ontario, Monsieur Howard Hampton

Monsieur le procureur général,

En conformité avec les dispositions du paragraphe 2(3) de la *Loi sur la Commission de réforme du droit de l'Ontario*, L.R.O. 1990, nous avons l'honneur de vous soumettre par la présente le rapport de la Commission de réforme du droit de l'Ontario pour l'exercice achevé le 31 mars 1992.

Rosalie S. Abella
La présidente

Richard E. B. Simeon
vice-président

Earl A. Cherniak
commissaire

John D. McCamus
commissaire

Margaret A. Ross
commissaire

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AVANT-PROPOS

Le présent rapport fait état des activités de la Commission de réforme du droit de l'Ontario pour l'exercice se terminant le 31 mars 1992. C'est également pour moi l'occasion de remercier la commission du mandat des plus intéressants qu'il m'a été donné de remplir auprès d'elle en qualité de présidente au cours des trois dernières années. Du fait de ma récente nomination à la magistrature, j'envisage mes rapports avec la C.R.D.O. non plus avec les yeux du producteur soucieux mais avec ceux du client intéressé, quoique cela ne modifie nullement ma loyauté envers la commission et les buts qu'elle poursuit.

Avec le temps et l'expérience, j'ai acquis la conviction que les commissions de réforme du droit constituent des organismes publics essentiels à la formulation de la politique du droit. En plus de former avec l'État un partenariat naturel duquel naissent les visions réformatrices, elles bénéficient d'un cadre de réflexion qui n'est pas toujours disponible aux dirigeants politiques. En effet, elles échappent aux pressions du moment sans éprouver toutefois l'effet de freinage que peut occasionner la nécessité d'obtenir un large consensus au tout début de leurs travaux.

Bien entendu, cela ne signifie pas que les commissions de réforme du droit n'ont pas l'obligation d'être utiles, pragmatiques ou prudentes. Par contre, cela veut dire que nos critères d'utilité, de pragmatisme et de prudence prennent une autre dimension dans le contexte des travaux de réflexion. Non seulement ces institutions sont-elles à même d'aborder tant sur le plan temporel que substantiel ou conceptuel des questions de droit et de politique que les gouvernements n'ont ni le temps, l'envie, le courage ou le besoin immédiat de traiter, mais elles se doivent de le faire.

Les questions considérées comme trop vastes ou trop insignifiantes, trop délicates ou trop imprécises pour le gouvernement au pouvoir peuvent néanmoins justifier une analyse au regard de la politique générale ainsi que certaines mesures de réforme éventuelles. De par leur nature, des questions de ce genre méritent d'être examinées par des institutions spécialisées intéressées à l'intérêt général et aux politiques, mais qui demeurent à l'abri de l'influence de l'État et de l'agitation de l'heure.

Les commissions de réforme du droit visent précisément à répondre à ce besoin. Loin de se satisfaire de la réaction immédiate du législateur, elles exposent leurs travaux à l'épreuve du temps, en s'accordant notamment les délais nécessaires au brassage des idées dans lesquelles des générations de parlementaires, d'avocats, d'universitaires, de juges, de journalistes, de fonctionnaires, d'analystes et de penseurs – bref tout l'éventail de la

société – viennent puiser la substance des politiques. La valeur des commissions se mesure à la qualité du débat public et privé que leurs travaux favorisent et non seulement au nombre de lois adoptées par suite de leurs recommandations. Leur importance tient à leur aptitude à représenter, stimuler et mettre en relief des idées d'intérêt général. Or, c'est précisément la qualité des idées véhiculées qui est à la base de la notion d'utilité, cette dernière étant évaluée non au regard de préoccupations particulières, tendancieuses ou sectorielles, mais bien sur l'échelle du temps et au regard de l'intérêt général.

Voilà pourquoi la Commission de réforme du droit de l'Ontario a institué un comité consultatif doté d'un large éventail de participants, a organisé la tenue mensuelle de séances de discussion pluridisciplinaires sur le droit et la politique sociale, a élargi l'ordre du jour de ses recherches de façon à englober un plus grand nombre de questions relatives au droit public, en plus de publier une gamme impressionnante de documents de recherche. C'est dire le nombre considérable de changements que l'on a apportés dans un laps de temps assez court. Et pourtant la commission n'a pas encore fini d'évoluer depuis 1964, époque à laquelle l'Ontario prenait l'heureuse initiative d'instaurer la première Commission de réforme du droit au sein du Commonwealth.

Depuis des années, cette commission rayonne grâce aux talents et au sérieux d'une douzaine d'avocats à demeure et de ses commissaires. L'on peut difficilement imaginer d'ailleurs un groupe de personnes plus collégial, sympathique et dévoué que celui avec lequel j'ai eu le privilège de travailler au cours des trois dernières années. Je suis particulièrement reconnaissante envers le politicologue et vice-président de la commission, Richard Simeon, co-auteur du programme de la commission, qui a mis ensuite tout son enthousiasme et sa générosité à le mettre en oeuvre. Ma gratitude vaut également pour mes collègues, Rob Prichard, Margaret Ross, Earl Cherniak et John McCamus, qui ont veillé à alimenter et atteindre une vision commune. Ce sont assurément des gens remarquables au service d'une commission non moins remarquable.

Au cours de la dernière année, nous avons déposé quatre rapports principaux, une série d'études ponctuelles ainsi qu'un recueil des recommandations de la commission.

Le rapport intitulé *Report on Exemplary Damages* a été déposé devant l'Assemblée législative de l'Ontario le 27 juin 1991. Celui intitulé *Report on Child Witnesses* a été déposé le 25 juillet 1991. On compte aussi le *Report on Testing for AIDS* déposé le 12 mars 1992, et le *Report on Public Inquiries* déposé le 30 mars 1992.

En plus de ces rapports, la commission a réalisé une série d'études sur la fonction judiciaire et la nomination des juges intitulées *Appointing Judges: Philosophy, Politics and Practice*, ainsi qu'un ouvrage de référence comportant un aperçu des recommandations formulées par la commission depuis sa création.

Signalons enfin que la commission a tenu une série de séances de discussion visant à examiner différentes questions touchant le droit et la politique sociale dont il est fait mention à l'annexe C.

PROGRAMME

A. Travaux Terminés

Nominations à la magistrature: Philosophie, politique et pratique

Étant donné que l'Accord du Lac Meech prévoyait pour les provinces le droit de soumettre la liste des candidats aux postes de juges de la Cour suprême du Canada, la Commission de réforme du droit a entrepris une étude sur les nominations à la magistrature, sous la direction du professeur John Whyte, doyen de la Faculté de droit de l'Université Queen's. Ce projet avait pour objet de définir le processus et les critères de sélection pour aider le gouvernement de l'Ontario à choisir les meilleurs candidats.

L'Accord du Lac Meech ne fut pas ratifié, et le projet a perdu sa raison d'être immédiate. Cependant, la sélection des meilleurs candidats, non seulement pour la Cour suprême du Canada, mais pour tous les paliers de la magistrature, demeure une question qui intéresse de plus en plus le public. La *Charte canadienne des droits et libertés* a été probablement un facteur décisif qui a amené le public à s'intéresser davantage au pouvoir judiciaire et à ceux qui l'exercent. Bien que les juges, de par leur fonction d'interprètes de la loi et des règles de droit, aient toujours joué un rôle dans la définition des grandes orientations de la société, la consécration constitutionnelle de la Charte a fait de ce rôle de soutien, un rôle décisif. Par suite, l'attention du public s'est tournée vers les juges lesquels sont maintenant investis du pouvoir de se prononcer en dernier ressort sur les compétences législatives de l'État.

Ainsi que l'indique le présent recueil d'études, cette évolution a suscité l'intérêt du public non seulement pour la fonction judiciaire, mais aussi pour les qualifications des personnes qui l'exercent. Les concepts mêmes de neutralité, de compétence, voire d'omniscience, judiciaires ont été soumis à un nouvel examen critique; il en est de même du processus de nomination à la magistrature. Il y a eu à juste titre un respect accru pour l'indépendance du pouvoir judiciaire, mais en même temps les gens insistent pour que le processus de sélection lui-même soit à l'abri des aléas de la politique. La réclamation se fait de plus en plus insistante d'un pouvoir judiciaire plus représentatif, plus au diapason des valeurs diverses et pluralistes consacrées dans la Charte et visibles dans notre société en évolution.

Les tribunaux et les juges ont ainsi reçu pour rôle de définir et contrôler les rapports entre le citoyen et l'État établis par la Charte, et ils sont devenus partie intégrante du processus de définition des orientations de la société. Dans cette société aux intérêts variés et contradictoires, les gens

voient de plus en plus en l'impartialité des juges, non pas une manifestation du statu quo, mais l'aptitude à s'ouvrir vraiment au pluralisme des vues et des gens que représente le Canada. Les attributs traditionnels des juges, notamment le savoir, le bon sens, la civilité et l'expérience, ne sont plus suffisants. Le jugement n'équivaut pas à une application mécanique de la loi et de la jurisprudence à des ensembles de faits. La légitimité des juges et leur aptitude à remplir efficacement les rôles complexes que nous leur avons assignés, dépendent de la transparence et de l'honnêteté de leur sélection, ainsi que de leur sensibilité à la société qu'ils desservent et dont ils sont issus.

Le présent recueil d'études porte précisément sur ces questions. Il représente une innovation en ce qui concerne les publications de la Commission de réforme du droit de l'Ontario. Il ne renferme pas un ensemble de recommandations, mais consiste en des recherches et des réflexions sur les diverses facettes de la sélection des juges, compte tenu des points de vue variés d'un grand nombre d'auteurs connus qui ont répondu aux questions posées par la Commission. Il n'est pas facile de formuler des recommandations précises sur les questions générales analysées dans ce volume, qui vont des considérations philosophiques sur le rôle des tribunaux dans notre société, au problème de la représentativité et de la responsabilité, en passant par les méthodes spécifiques qui pourraient institutionnaliser et garantir les valeurs à promouvoir dans la sélection des juges. La Commission espère au contraire, grâce à ce recueil et conformément à son mandat, stimuler le débat sur ce grand sujet de préoccupation publique.

Ni la Commission ni les auteurs ne proposent de façon définitive un processus quelconque de sélection des juges, mais se prononcent catégoriquement pour une magistrature indépendante, représentative, peu importe le mode de sélection, et qui soit pleinement en harmonie avec le dynamisme du droit et avec les besoins du public qu'elle dessert.

Dommages-intérêts punitifs

Dans son rapport intitulé *Report on Exemplary Damages* , la Commission de réforme du droit de l'Ontario poursuit deux objectifs principaux. En premier lieu, elle vise à répondre aux arguments avancés ces dernières années et selon lesquels les dommages-intérêts punitifs ont contribué à une crise dans l'application des règles relatives aux délits civils et aussi à la soi-disant "crise de l'assurance". En second lieu, elle vise à rationaliser le fondement théorique des dommages-intérêts punitifs, à contribuer à faire en sorte qu'ils soient accordés conformément à des principes clairement définis.

Les dommages-intérêts punitifs ont fondamentalement pour but de dissuader et punir la personne coupable d'agissements répréhensibles. Depuis plusieurs années, nombreux sont ceux qui s'inquiètent de ce que les dommages-intérêts sont en partie responsables de la crise apparente dans le régime des délits civils et dans le secteur de l'assurance. Entre autres sujets de préoccupation spécifiques: (1) les dommages-intérêts punitifs sont demandés et accordés bien plus fréquemment que par le passé; (2) ils sont demandés et accordés relativement à des causes d'action de plus en plus variées; (3) le montant accordé est plus élevé qu'autrefois; (4) ils sont accordés dans des affaires où rien ne les justifie, ou le montant accordé est excessif; et (5) les actions fallacieuses en dommages-intérêts punitifs peuvent avoir un effet indésirable sur le processus de règlement, en forçant le défendeur à accepter de régler à l'amiable une demande ou de payer une somme qu'il n'aurait normalement pas acceptée.

Pour examiner ces sujets de préoccupation et réunir une base statistique pour ce rapport, la Commission a commandé une étude empirique. À la lumière de cette étude et d'autres recherches, elle conclut qu'il n'y a aucune preuve de "crise" causée par l'état actuel du droit en matière de dommages-intérêts punitifs. Elle conclut aussi que, eu égard aux principes de droit en vigueur en Ontario, il est peu probable qu'une telle crise ne se produise.

La Commission recommande cependant une certaine réforme des règles de droit applicables en la matière, de sorte que les dommages-intérêts punitifs reposent sur une base claire, uniforme et rationnelle. À cette fin, elle adopte une approche fonctionnelle, en isolant les trois fonctions, ou raisons d'être, qui sont généralement invoquées pour justifier l'allocation de dommages-intérêts punitifs: (1) réparation; (2) punition, et (3) dissuasion.

La Commission essaie de clarifier les règles actuelles en rendant plus explicites les objectifs visés par l'allocation de dommages-intérêts punitifs, et en identifiant spécifiquement les objectifs politiques qu'ils devraient viser.

Le chapitre 2 donne un aperçu des règles en vigueur en matière de dommages-intérêts punitifs au Canada, en Angleterre et aux États-Unis, avec une analyse des différences notables entre ce dernier pays et le Canada. Le chapitre 3 rappelle les arguments habituellement avancés pour défendre ou combattre les dommages-intérêts punitifs. Les données empiriques recueillies en Ontario et aux États-Unis sont résumées au chapitre 4.

Une approche qui se dégage naturellement de l'analyse fonctionnelle adoptée par la Commission consiste à exclure entièrement la fonction réparatrice des dommages-intérêts punitifs. Les tribunaux ont déjà essayé d'isoler la fonction réparatrice en faisant la distinction entre les dommages-intérêts pour préjudice moral (*aggravated damages*) et les dommages-intérêts

punitifs (*exemplary or punitive damages*). Traditionnellement, les premiers servent à dédommager le demandeur de l'atteinte à son honneur et à sa dignité par suite des agissements répréhensibles du défendeur, alors que les seconds visent à punir et dissuader le défendeur. C'est ainsi que l'analyse faite au chapitre 5 ne commence pas par les dommages-intérêts punitifs, mais par les dommages-intérêts pour préjudice moral. La Commission recommande que l'atteinte à l'honneur et à la dignité soient réparée conformément aux principes ordinaires de réparation. Plus spécifiquement, elle recommande que les tribunaux soient habilités à inclure les dommages-intérêts pour préjudice moral dans l'allocation globale ordinaire des dommages-intérêts pour préjudice non pécuniaire, et à les accorder sans preuve d'agissements répréhensibles. Nos recommandations visent à distinguer plus nettement la fonction réparatrice de celles de dissuasion et de punition afin de clarifier l'analyse subséquente des dommages-intérêts punitifs.

Le chapitre 6 porte sur les arguments tendant à justifier les dommages-intérêts punitifs en tant que complément du droit pénal. Par le passé, leur fonction première a été la punition, et la Commission recommande qu'elle continue de l'être. La Commission est en faveur du concept de punition civile comme complément du droit pénal dans les cas exceptionnels, et en faveur de la fonction symbolique des dommages-intérêts punitifs. Elle recommande leur maintien en Ontario, comme mesure de punition, ainsi que l'adoption de l'appellation *punitive damages* en anglais, délibérément choisie pour exprimer leur objectif avec plus de précision.

La Commission recommande en outre de n'accorder les dommages-intérêts punitifs que dans les cas où le défendeur a intentionnellement commis un acte illégitime punissable et où ses agissements ont été répréhensibles. Elle recommande aussi que le montant des dommages-intérêts soit fonction de la gravité de l'acte punissable. Enfin, la Commission formule des propositions relatives à une variété de questions: quantification des dommages-intérêts punitifs, fardeau de la preuve, responsabilité du fait d'autrui, codélinquants et droit des héritiers aux dommages-intérêts.

Au chapitre 7, la Commission se penche sur un aspect du *tort for profit* et recommande que si le demandeur choisit le recours en restitution au lieu d'un recours en responsabilité délictuelle, il ait également le droit de demander des dommages-intérêts punitifs.

Le chapitre 8 est consacré à des questions spécifiques touchant la négligence, les nuisances et les actes illégitimes en equity. La Commission recommande que, dans ces situations, les dommages-intérêts punitifs soient possibles, conformément aux recommandations antérieures. Au chapitre 9, la Commission examine l'argument innovateur voulant que les autorités

publiques investies de pouvoirs légaux puissent, elles aussi, se voir condamner au paiement de dommages-intérêts punitifs, et recommande que celles-ci demeurent indépendamment susceptibles de dommages-intérêts punitifs au cas où elles abusent sciemment de leur pouvoir légal et causent un préjudice à quelqu'un. Enfin, au chapitre 10, la Commission examine les dommages-intérêts supplémentaires en droit contractuel, et conclut qu'il serait prématuré de faire des recommandations de réforme dans ce domaine.

Témoignage des enfants

Dans son rapport sur le témoignage des enfants (*Report on Child Witnesses*), la Commission de réforme du droit de l'Ontario vise trois principaux objectifs: 1) contester l'hypothèse sur laquelle reposent un grand nombre de nos règles de droit concernant l'absence de fiabilité du témoignage des enfants; 2) inciter l'Assemblée législative à abroger certaines règles de droit empêchant les enfants de raconter devant le tribunal, sous forme de témoignage, les événements dont ils ont été témoins et 3) instaurer dans notre système judiciaire des mesures préventives veillant à ce que le tribunal reçoive, lors du témoignage d'un enfant, le récit le plus complet, cohérent et fidèle possible. Le rapport démontre que plusieurs des règles issues de la législation et de la common law sur le témoignage des enfants sont fondées sur des notions erronées quant au manque de fiabilité de leur témoignage. Les études psychologiques des vingt dernières années indiquent que notre optique traditionnelle sur les témoignages des enfants ne repose pas toujours sur des bases tangibles. Les recherches actuelles démontrent clairement que les enfants possèdent des facultés cognitives suffisantes pour comprendre ou décrire les événements dont ils ont été témoins et peuvent différencier le réel de l'imaginaire; ils possèdent un sens de l'éthique et ne sont pas plus enclins que les adultes à fabriquer un témoignage.

La Commission recommande l'abolition du serment et son remplacement par une promesse de dire la vérité. Selon les règles de la *Loi sur la preuve* de l'Ontario, il est extrêmement difficile pour un enfant d'être admis à témoigner et, de ce fait, les juges sont virtuellement privés de preuves précieuses. La Commission estime que le serment actuel est davantage un test de la croyance et de l'engagement religieux plutôt qu'une mesure assurant que l'enfant saisit l'importance de dire la vérité. Le passage en Ontario d'une société religieuse à une société séculaire, amplifie en outre le caractère inopportun du serment.

La Commission propose l'abrogation des dispositions de la *Loi sur la preuve* voulant que le témoignage de l'enfant n'ayant pas prêté serment soit corroboré. De plus, la Commission recommande l'abolition de toute règle

obligeant le tribunal à présumer l'absence de fiabilité du témoignage non corroboré d'un enfant. La Commission fait ces recommandations en se fondant sur les motifs qui suivent. D'abord, il est scientifiquement erroné de supposer que l'enfant est incapable de rendre un témoignage digne de foi. Deuxièmement, il est souvent impossible d'obtenir une preuve directe, essentielle ou oculaire, visant à corroborer le témoignage de l'enfant. Une autre raison justifiant l'abolition de ces règles restrictives est leur aspect déraisonnable et injuste, ces dernières s'appliquant au témoignage des enfants et non à celui des adultes.

La réforme de la règle du ouï-dire concernant les déclarations de l'enfant constitue une autre recommandation importante du rapport. L'ouï-dire de l'enfant constitue souvent la meilleure preuve des faits en litige et la seule preuve positive au cours d'une poursuite. La Commission recommande que les déclarations relatées par l'enfant soient recevables si le juge estime qu'elles sont suffisamment fiables. Le tribunal pourra alors juger du poids à accorder aux déclarations hors-cour faites par l'enfant. La Commission estime que cette recommandation contribuera à éclaircir le droit et permettra aux tribunaux d'examiner, à l'occasion, des preuves d'une extrême fiabilité.

Au dernier chapitre du rapport, la Commission propose l'adoption de mesures législatives visant à mieux tenir compte de la situation des enfants appelés à témoigner dans les instances civiles. Cette proposition répond à un besoin de reconnaître la vulnérabilité de l'enfant témoin et de modifier en conséquence les façons dont il peut témoigner. L'adoption de dispositions législatives permettant des témoignages sur vidéocassette et autorisant un enfant témoin à témoigner derrière un paravent ou au moyen d'une télévision en circuit fermé, rendrait possibles la présentation et l'audition de preuves fiables. L'enfant devrait être mieux protégé dans le processus judiciaire; son récit serait alors plus naturel, minutieux et articulé.

Tests de dépistage du SIDA

Dans son rapport intitulé *Report on Testing for AIDS*, la Commission de réforme du droit de l'Ontario recommande que le consentement volontaire, explicite et éclairé du patient soit exigé avant d'administrer tout type de test anti-VIH. Contrairement à la plupart des autres tests sanguins de routine, les tests anti-VIH peuvent, s'ils s'avèrent positifs, avoir des conséquences importantes sur l'état psychologique, social et financier de l'individu. Tant qu'il n'y aura pas de cure, et tant que la stigmatisation sociale entourera le SIDA et l'infection au VIH, une stratégie de santé publique incitant les personnes à risque à demander de plein gré une sérologie anti-VIH et à

adopter un comportement de moindre risque sera la meilleure méthode pour lutter contre la propagation du VIH. Pour réduire le taux de propagation du VIH, la Commission préconise une stratégie à deux volets: des programmes et des campagnes de sensibilisation de l'opinion adressées à un public cible, et un réseau complet de services de dépistage anti-VIH accessibles à tous. La Commission s'oppose donc au criblage obligatoire sauf dans les cas de don de sang ou de tissus, et dans le cas de criblages anonymes pour des fins de recherche ou d'épidémiologie.

La Commission estime qu'il est essentiel de maintenir scrupuleusement le caractère confidentiel de l'information sur le VIH non seulement pour empêcher que la divulgation non autorisée de ces renseignements ne cause de préjudice grave, mais aussi pour inciter les personnes à risque à s'identifier et à demander de plein gré une sérologie anti-VIH. La protection de l'information sur les tests et les traitements anti-VIH est cruciale pour le respect de la vie privée comme valeur sociale, et pour la sauvegarde de la santé publique. Elle est par ailleurs pleinement compatible avec le droit de la collectivité de combattre le VIH. En conséquence, la Commission recommande que le patient désirant se soumettre à un test anti-VIH puisse le faire sans avoir à s'identifier. Les services de santé publique devraient toutefois toujours avoir accès aux renseignements dépersonnalisés importants pour la recherche médicale et démographique.

La Commission estime qu'une bonne stratégie de santé publique en matière de VIH devrait prévoir un système pratique d'information des partenaires reposant sur la libre participation du patient, et administré sous la direction du médecin traitant. La Commission propose l'instauration d'un système d'information des partenaires sous la direction du médecin traitant. Un tel système inciterait le patient à collaborer avec son médecin pour informer ses partenaires. En respectant des principes directeurs spécifiques, les médecins pourraient avertir eux-même les partenaires de patients infectieux qui ne se doutent pas des dangers qu'ils courent et qui sont exposés à des risques élevés de transmission. La Commission propose de plus que le médecin et son patient puissent avoir recours aux services de santé publique à n'importe quelle étape du processus d'information des partenaires et que les médecins qui informent les partenaires du patient jouissent d'une immunité contre toute poursuite découlant de l'exercice de cette charge.

En terminant, et pour couvrir le plus exhaustivement possible l'ensemble du sujet, la Commission recommande l'adoption de mesures législatives, de préférence une loi spécifiquement axée sur le VIH, pouvant servir de cadre à toute règle régissant les tests anti-VIH et la protection de l'information sur le virus.

Enquêtes publiques

Dans son rapport intitulé *Report on Public Inquiries*, la Commission de réforme du droit de l'Ontario conclut que s'il convient de maintenir la pratique des enquêtes publiques, il faudrait toutefois réformer les règles de droit qui les régissent afin de protéger l'individu. Les enquêtes publiques ont joué un rôle important dans l'évolution de la province et du pays dans son ensemble. Bien que leur impact soit difficile à mesurer, elles ont souvent reflété les débats et les préoccupations du moment, de même que les thèmes de la réflexion politique à long terme. Les enquêtes publiques sont devenues partie intégrante du processus gouvernemental tout en formant une institution distincte de l'Assemblée législative, de l'exécutif et du judiciaire. Récemment toutefois, deux enquêtes publiques tenues en Ontario ont été la cible de procédures judiciaires remettant en question leur utilité et leur justice. L'une de ces enquêtes a même dû mettre un terme à ses activités.

La Commission distingue deux types d'enquêtes publiques; celles qui visent surtout à formuler les grandes orientations politiques, et celles qui font enquête sur des agissements répréhensibles. Ces dernières risquent d'avoir le plus d'impact sur les droits de l'individu, et les propositions de réforme de la Commission portent principalement sur elles.

En réponse aux critiques à l'endroit des enquêtes publiques, la Commission fait une série de recommandations. Elle cherche ainsi à réduire au minimum le préjudice et les injustices que peuvent causer les enquêtes publiques, sans toutefois nuire à l'exécution de leur mandat. Par exemple, la Commission recommande que, sauf exception, toute personne assignée à témoigner devant une commission d'enquête publique puisse exercer son droit légal de refuser de témoigner au motif que son témoignage risquerait de l'incriminer. La Commission de réforme du droit de l'Ontario recommande en outre que si les commissaires chargés d'une enquête estiment que de graves accusations d'agissements répréhensibles seront portées contre une personne lors d'assises publiques, ils devraient lui donner avis de ces allégations, et une personne ayant ainsi reçu avis devrait avoir le droit de répondre.

La Commission fait aussi des recommandations dans le but de reconnaître l'indépendance des enquêtes publiques par rapport à l'exécutif et à l'Assemblée législative, de protéger cette indépendance, de faciliter la participation du public et d'améliorer l'efficacité et le rendement des enquêtes publiques, tout en tenant compte des exigences de justice, d'indépendance et de participation. À cet effet, la Commission recommande que si, dans les trente jours de la remise du rapport d'une commission au lieutenant-gouverneur en conseil, ce rapport n'a pas encore été déposé

devant l'Assemblée législative ni rendu public, la commission devrait avoir le droit de rendre elle-même son rapport public. La Commission recommande en outre que toute personne ou tout organisme véritablement intéressé à une matière liée à l'enquête soit admis à présenter des observations.

Le rapport est composé de six chapitres. Au chapitre 1, la Commission rappelle l'évolution de l'enquête publique comme instrument important du gouvernement au Canada, et compare le rôle qu'elle a acquis dans la définition des grandes orientations politiques à celui d'autres institutions.

Au chapitre 2, la Commission analyse le droit actuel sur les enquêtes publiques en Ontario, notamment les dispositions législatives sur : la constitution des commissions d'enquête, la définition de leur mandat, la sélection des commissaires, le contrôle autonome de la commission d'enquête sur ses procédures internes et sur la publication de son rapport, les règles de procédure et les règles de preuve applicables aux enquêtes publiques (en particulier, le caractère public et ouvert des audiences, la qualité pour agir et les avis), et les procédures de révision judiciaire.

Le chapitre 3 traite des enquêtes publiques sur le plan constitutionnel. La première partie du chapitre examine l'étendue des compétences constitutionnelles de l'Ontario sur les activités des commissions d'enquête publique. La deuxième partie du chapitre étudie en quoi les articles 7 et 13 de la Charte touchent les enquêtes publiques. La Commission analyse avec une attention particulière les incidences de ces dispositions sur le pouvoir des commissions d'enquête d'assigner toute personne à comparaître et à témoigner, et de la sommer de produire des documents ou toute autre preuve.

Au chapitre 4, la Commission préconise des mesures de réforme. Elle répond aux critiques contre les enquêtes publiques, examine les formules de classement déjà avancées, notamment les formules axées sur la distinction suggérée entre les enquêtes consultatives et les enquêtes sur des agissements répréhensibles, et elle discute des objections soulevées par cette distinction.

Le chapitre 5 donne un aperçu des propositions de réforme et de la législation en vigueur dans d'autres ressorts.

Enfin au chapitre 6, la Commission définit les grandes options de réforme et les principes généraux sur lesquels cette réforme devrait reposer.

Sommaire des recommandations

Ce recueil en trois volumes fait le sommaire des rapports et des recommandations de la Commission de réforme du droit de l'Ontario depuis sa constitution par le gouvernement de l'Ontario en 1964. Il vise à rendre le travail de la Commission plus facilement accessible au public et à ceux qui s'intéressent à une politique du droit. Cette publication continuera d'être diffusée à mesure que les rapports sont rendus publics.

B. TRAVAUX EN COURS

Résolution des conflits de travail

Ce projet se poursuit sous la direction du professeur Bernard Adell, de la Faculté de droit de l'Université Queen's, et vise à déterminer si, du point de vue de la structure et du processus, la résolution des conflits de travail se fait de façon aussi efficace et aussi expéditive que possible.

Dans le cadre de ce projet, la Commission consultera ou étudiera les sources suivantes, selon le cas : le service de l'arbitrage des griefs de la Commission des relations de travail de l'Ontario, les arbitres prévus à la *Loi sur les normes d'emploi*, les appels entendus par le Directeur des appels sous le régime de la *Loi sur la santé et la sécurité au travail*, les commissions d'enquête prévues au *Code des droits de la personne de l'Ontario*, la Commission de l'équité salariale, le Tribunal des relations de travail de la fonction publique de l'Ontario et la Commission de règlement des griefs.

En outre, elle examinera s'il y a lieu de réformer certains domaines du droit administratif touchant à la résolution des conflits de travail.

Règles de droit sur le dépistage: toxicomanie et alcoolisme, génétique et psychologie

La Commission de réforme du droit de l'Ontario a entrepris quatre études sur les règles de droit applicables en matière de dépistage. Le rapport intitulé *Report on Aids Testing* a été rendu public au cours de l'année. La Commission continue d'étudier les domaines de la toxicomanie et de l'alcoolisme, du testage génétique et psychologique en certains milieux, comme au travail, à l'école et dans diverses institutions. Ces études porteront sur l'équilibre à maintenir entre le droit de l'individu à la protection de sa vie privée et le droit du public d'être informé.

Enquêtes du coroner

A l'origine, la Commission avait entrepris de mener deux études de front, l'une sur les enquêtes instituées en application de la *Loi sur les enquêtes publiques* et l'autre sur les enquêtes judiciaires prévues à la *Loi sur les coroners*. Il fut ensuite décidé de publier deux rapports distincts. Notre rapport intitulé *Report on Public Inquiries* a été rendu public dans le courant l'année et nous continuons à travailler sur notre étude sur les enquêtes du coroner. Dans cette étude, la Commission examinera les conflits qui existent entre la recherche de l'intérêt général et la protection, le cas échéant, de l'auteur présumé d'une faute. Le projet est placé sous la direction du professeur Allan Manson de la Faculté de droit de l'Université Queen's.

Oeuvres de bienfaisance

Par suite d'un renvoi du procureur général, la Commission a commencé une étude des règles de droit applicables aux oeuvres de bienfaisance, sous la direction du professeur David Stevens de la Faculté de droit de l'Université McGill.

Dans le cadre de ce projet, la Commission examine le statut, la forme juridique, les sources et l'affectation des recettes, et le contrôle des oeuvres de bienfaisance. Entre autres, les questions spécifiques suivantes sont à l'ordre du jour: (1) quels types d'activités devraient bénéficier des avantages accordés aux oeuvres de bienfaisance; (2) si les organisations à but politique devraient être considérées comme oeuvres de bienfaisance; (3) s'il convient que les oeuvres de bienfaisance soient créées sous des formes juridiques différentes (fiducie, personne morale, association non dotée de la personnalité morale); (4) si les pouvoirs de placement des oeuvres de bienfaisance devraient être soumis à des restrictions; (5) si les oeuvres de bienfaisance devraient avoir le droit de posséder des organisations à but lucratif ou d'exploiter directement une entreprise; (6) s'il faudrait contrôler les activités de financement des oeuvres de bienfaisance et (7) quelle autorité devrait être chargée de réglementer les oeuvres de bienfaisance, et par quels moyens.

Principes fondamentaux du droit immobilier

Trois études contenant des recommandations de réforme sur les principes fondamentaux du droit immobilier ont été réalisées par la Commission au cours des travaux de recherche. Nous avons retenu les services de M. T.G. Youdan, professeur à la Faculté de droit d'Osgoode

Hall, Université York, pour rédiger un rapport devant être soumis à la Commission. Celui-ci portera sur les droits différés, la copropriété et les servitudes.

Équité et égalité

Cette étude examinera le lien entre le concept d'égalité et les programmes spéciaux conçus pour assurer l'équité. Récemment, les programmes visant à corriger diverses manifestations de discrimination systémique ont été contestés lors d'une série d'actions en justice. Ces affaires reposaient sur l'interprétation du paragraphe 15(2) de la *Charte canadienne des droits et libertés* et des dispositions d'exception prévues pour certains programmes en vertu de la législation sur les droits de la personne. Le maintien au sens formel d'un notion d'égalité selon laquelle les programmes d'équité sont des exceptions plutôt qu'une expression d'égalité est une grande source de confusion pour beaucoup de personnes.

Cette étude est menée par Mme Colleen Sheppard, professeure à la Faculté de droit de l'Université McGill.

Pouvoirs de la Commission de contrôle cinématographique de l'Ontario

L'étude sera axée sur les pouvoirs de sanction et de classification de la Commission de contrôle cinématographique en vertu de la *Loi sur les salles de cinéma de l'Ontario*. Elle rappellera brièvement l'évolution de la Commission cinématographique dans le contexte historique de la classification et de la censure au Canada et ailleurs. Elle discutera des objectifs justifiant la constitution de la Commission et son maintien, et analysera si ces objectifs sont atteints, en théorie comme en pratique. Une analyse constitutionnelle des pouvoirs de sanction et de classification de la Commission sera aussi entreprise. En conclusion, le rapport proposera les réformes qui s'imposent à la Loi.

L'application rétroactive des jugements

L'arrêt récent de la Cour suprême du Canada dans *De Savoye c. Morguard Investments Ltd.* a transformé le droit en matière d'exécution de jugements étrangers. La Cour suprême de la Colombie Britannique dans l'arrêt *Clarke c. Lo Bianco* a appliqué la décision de la Cour suprême, mais ce faisant, elle a mis en relief un problème implicite dans cet arrêt. Dans

cette étude, la Commission examine la question de l'application rétroactive des jugements. La question centrale porte sur le préjudice susceptible d'affecter le défendeur à la suite de changements au droit alors que celui-ci avait toute raison de croire que le droit primitif était inchangé. L'étude examinera la gamme de solutions possibles à ce problème, y compris les solutions législatives, les suggestions émanant de la magistrature et autres moyens disponibles comme les règles sur les dépens spéciaux. L'étude est placée sous la direction de John Swan, membre du Barreau de l'Ontario.

ANNEXE A

RAPPORTS DE LA COMMISSION DE RÉFORME DU DROIT DE L'ONTARIO

Titre	Date du Rapport
Report No. 1 [The Rule Against Perpetuities]	1965
Report No. 1A: The Perpetuities Act, 1965 [Supplementary Report on the Rule Against Perpetuities]	1966
Report No. 2 [The Wages Act: Assignment of Wages]	1965
Report No. 3 on Personal Property Security Legislation	1965
Report on the Evidence Act: Admissibility of Business Records	1966
Report on the Mechanics' Lien Act	1966
Supplementary Report on the Mechanics' Lien Act	1966
Report on the Proposed Extension of Guarantor's Liability on Construction Bonds	1966
Report on The Execution Act: Exemption of Goods from Seizure	1966
Report on the Law of Condominium	1967
Report on the Basis for Compensation on Expropriation	1967
Report on the Limitation Period for Actions under The Sandwick, Windsor and Amherstburg Railway Act, 1930	1968
Annual Report 1967	1968
Report on Certain Aspects of the Proposed Divorce Legislation Contained in Bill C-187	1968
Report on the Proposed Adoption in Ontario of The Uniform Wills Act	1968
Report on The Protection of Privacy in Ontario	1968
Report on Section 183 of The Insurance Act	1968
Report on Trade Sale of New Houses	1968
Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies	1968
Report on the Limitation of Actions	1969

Titre	Date du Rapport
Second Annual Report 1968	1969
Report on the Age of Majority and Related Matters	1969
Report on the Status of Adopted Children	1969
Report on Family Law, Part I: Torts	1969
Report on Section 20 of the Mortgages Act	1970
Report on Family Law II: Marriage	1970
Third Annual Report 1969	1970
Report on Actions Against Representatives of Deceased Persons	1970
Report on the Coroner System in Ontario	1971
Report on Sunday Observance Legislation	1971
Report on Land Registration	1971
Fourth Annual Report 1970	1971
Report on The Change of Name Act	1971
Report on the Mortgages Act, Section 16	1971
Report on Development Control	1971
Report on Powers of Attorney	1972
Report on Occupiers' Liability	1972
Report on Consumer Warranties and Guarantees in the Sale of Goods	1972
Report on Review of Part IV of The Landlord and Tenant Act	1972
Fifth Annual Report 1971	1972
Report on the Non-Possessory Repairman's Lien	1972
Report on the Administration of Ontario Courts, Part I	1973
Sixth Annual Report 1972	1973
Report on the Administration of Ontario Courts, Part II	1973 1973
Report on Family Law, Part III: Children	1973
Report on The Solicitors Act	1973
Report on Motor Vehicle Accident Compensation	1973
Report on the Administration of Ontario Courts, Part III	1973
Report on Family Law, Part IV: Family Property Law	1974
Report on Family Law, Part V: Family Courts	1974

Titre	Date du Rapport
Seventh Annual Report 1973	1974
Report on the International Convention Providing a Uniform Law on the Form of the International Will	1974
Eight Annual Report 1974	1975
Report on Family Law, Part VI: Support Obligations	1975
Report on Mortmain, Charitable Uses and Religious Institutions	1976
Report on Landlord and Tenant Law	1976
Report on the Law of Evidence	1976
Ninth Annual Report 1975	1976
Report on Changes of Name	1976
Report on the Impact of Divorce on Existing Wills	1977
Tenth Annual Report 1976	1977
Eleventh Annual Report 1977	1978
Report on the Sale of Goods	1979
Twelfth Annual Report 1978	1979
Report on Products Liability	1979
Thirteenth Annual Report	1980
Report on the Enforcement of Judgment Debts and Related Matters, Part III	1981
Fourteenth Annual Report 1980-81	1981
Report on Witnesses Before Legislative Committees	1981
Report on Class Actions	1982
Fifteenth Annual Report 1981-82	1982
Report on the Enforcement of Judgments Debts and Related Matters, Part IV	1983
Report on the Enforcement of Judgment Debts and Related Matters, Part V	1983
Report on Powers of Entry	1983
Sixteenth Annual Report 1982-83	1983
Report on the Law of Trusts	1983
Seventeenth Annual Report 1983-84	1984
Report on Human Artificial Reproduction and Related Matters	1985

Titre	Date du Rapport
Twentieth Anniversary Report 1984-85	1985
Twenty-First Annual Report 1985-86	1986
Report on Political Activity, Public Comment and Disclosure by Crown Employees	1986
Report on Amdement of the Law of Contract	1987
Report on the Law of Mortgages	1987
Twenty-Second Annual Report	1987
Report on Compensation for Personal Injuries and Death	1987
Report on Contribution Among Wrongdoers and Contributory Negligence	1988
Report on Timesharing	1988
Twenty-Third Annual Report 1987-88	1988
Study Paper on Wrongful Interference with Goods	1989
Report on the Law of Standing	1989
Report on Covenants Affecting Freehold Land	1989
Report on Liability of the Crown	1989
Report on Damages for Environmental Harm	1990
Report on the Basis of Liability for Provincial Offences	1990
Report on Administration of Estates of Deceased Persons	1991
Report on Exemplary Damages	1991
1991 Ontario Law Reform Commission Report	1991
Appointing Judges: Philosophy, Politics and Practice	1991
Report on Child Witnesses	1991
Report on Testing for AIDS	1992
Report on Public Inquiries	1992
Summary of Recommendations	1992
Annual Report 1991-1992	1992

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ANNEXE B

MISE EN OEUVRE DES RAPPORTS DE LA COMMISSION DE RÉFORME DU DROIT DE L'ONTARIO

Titre	Date du Rapport	Législation originale concernant les propositions de la Commission
Report No. 1 [The Rule Against Perpetuities]	1965	*Loi sur les dévolutions perpétuelles*, L.O. 1966, chap. 113
Report No. 1A: The Perpetuities Act, 1965 [Supplementary Report on the Rule Against Perpetuities]	1966	*do.*
Report No. 2 [The Wages Act: Assignment of Wages]	1965	*The Wages Amendment Act, 1968*, L.O. 1968, chap. 142
Report No. 3 on Personal Property Security Legislation	1965	*Loi sur les sûretés mobilières*, L.O. 1967, chap. 72
Report No. 3A on Personal Property Security Legislation	1966	*do.*
Report on The Evidence Act: Admissibility of Business Records	1966	*The Evidence Amendment Act, 1966*, L.O. 1966, chap. 51, art. 1
Report on The Mechanics' Lien Act	1966	*The Mechanics' Lien Act, 1968-69*, L.O. 1968-69, chap. 65
Supplementary Report on The Mechanics' Lien Act	1967	*do.*
Report on the Proposed Extension of Guarantor's Liability on Construction Bonds	1966	voir *The Mechanics' Lien Amendment Act, 1975*, L.O. 1975, chap. 43 *The Ministry of Transportation and Communications Creditors Payment Act, 1975*, L.O. 1975, chap. 44

Titre	Date du Rapport	Législation originale concernant les propositions de la Commission
		The Public Works Creditors Payment Repeal Act, 1975, L.O. 1975, chap. 45
Report on The Execution Act: Exemption of Goods from Seizure	1966	*The Execution Amendment Act, 1967*, L.O. 1967, chap. 26
Report on the Law of Condominium	1967	*Loi sur les condominiums*, L.O. 1967, chap. 13
Report on the Basis for Compensation on Expropriation	1967	*Loi sur l'expropriation*, L.O. 1968-69, chap. 36
Report on the Limitiation Period for Actions under The Sandwich, Winsor and Amherstburg Railway Act, 1930	1968	*The Sandwich Windsor and Amherstburg Railway Amendment Act, 1968*, L.O. 1968, chap. 120
Report on Certain Aspects of the Proposed Divorce Legislation Contained in Bill C-187	1968	*Loi sur le divorce*, L.C. 1967-68, chap. 24, art. 26
Report on the Proposed Adoption in Ontario of The Uniform Wills Act	1968	*Loi portant réforme du droit des successions*, L.O. 1977, chap. 40
		voir *The Registry Amendment Act, 1978*, L.O. 1978, chap. 8, art. 1
Report on The Protection of Privacy in Ontario	1968	voir *Loi sur les renseignements concernant le consommateur*, L.O. 1973, chap. 97
Report on Trade Sale of New Houses	1968	voir *Loi sur le régime de garanties des logements neufs de l'Ontario*, L.O. 1976, chap. 52
Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies	1968	*The Landlord and Tenant Amendment Act, 1968-69*, L.O. 1968-69, chap. 58

Titre	Date du Rapport	Législation originale concernant les propositions de la Commission
Report on Limitation of Actions	1969	voir *The Highway Traffic Amendment Act (No. 2), 1975*, L.O. 1975, chap. 37 *The Fatal Accidents Amendment Act, 1975*, L.O. 1975, chap. 38 *The Trustee Amendment Act, 1975*, L.O. 1975, chap. 39
Report on the Age of Majority and Related Matters	1969	*Loi sur la majorité et la capacité civile*, L.O. 1971, chap. 98
Report on the Status of Adopted Children	1969	*The Child Welfare Amendment Act, 1970*, L.O. 1970, chap. 96, art. 23
Report on Family Law, Part I: Torts	1969	*Loi portant réforme du droit de la famille*, L.O. 1978, chap. 2 (mise en vigueur partielle)
Report on Section 20 of The Mortgages Act	1970	*The Mortgages Amendment Act, 1970*, L.O. 1970, chap. 54, art. 1
Report on Family Law, Part II: Marriage	1970	*The Civil Rights Statute Law Amendment Act, 1971*, L.O. 1971, chap. 50, art. 55 (mise en vigueur partielle) *Loi sur le mariage*, L.O. 1977, chap. 42
Report on Actions Against Representatives of Deceased Persons	1970	*The Trustee Amendment Act, 1971*, L.O. 1971, chap. 32, art. 2
Report on the Coroner System in Ontario	1971	*Loi sur les coroners*, L.O. 1972, chap. 98
Report on Sunday Observance Legislation	1971	*Loi sur les jours fériés dans le commerce de détail*, L.O. 1975 (2e session), chap. 9 *Loi sur les tribunaux judiciaires*, L.O. 1984, chap. 11, art. 134

Titre	Date du Rapport	Législation originale concernant les propositions de la Commission
Report on Land Registration	1971	voir *The Corporations Tax Amendment Act (No. 2), 1979*, L.O. 1979, chap. 89 *Loi portant réforme de l'enregistrement immobilier*, L.O. 1984, chap. 32
Report on The Change of Name Act	1971	*The Change of Name Amendment Act, 1972*, L.O. 1972, chap. 44 *Loi sur le changement de nom*, L.O. 1986, chap. 7
Report on Development Control	1971	*The Planning Amendment Act, 1973*, L.O. 1973, chap. 168, art. 10
Report on Powers of Attorney	1972	*Loi sur les procurations*, L.O. 1979, chap. 107 *Loi de 1983 modifiant la Loi sur les procurations*, L.O. 1983, chap. 74 *Loi modifiant la Loi sur la santé mentale de 1983*, chap. 75
Report on Occupiers' Liability	1972	*Loi sur la responsabilité des occupants*, L.O. 1980, chap. 14
Report on Review of Part IV of The Landlord and Tenant Act	1972	*The Landlord and Tenant Amendment Act, 1972*, L.O. 1972, chap. 123
Report on the Non-Possessory Repairman's Lien	1972	*Loi sur le privilège des réparateurs et des entreposeurs*, L.O. 1989, chap. 17 (mise en vigueur partielle)
Report on the Administration of Ontario Courts, Part I	1973	voir *The Administration of Courts Project Act, 1975*, L.O. 1975, chap. 31

Titre	Date du Rapport	Législation originale concernant les propositions de la Commission
		The Judicature Amendment Act (No. 2), 1977, L.O. 1977, chap. 51, art. 9 *Loi sur les tribunaux judiciaires*, L.O. 1984, chap. 11, art. 19 et 25
Report on the Administration of Ontario Courts, Part II	1973	*Loi sur les tribunaux judiciaires*, L.O. 1984, chap. 11, art. 162 voir *The Administration of Courts Project Act, 1975*, L.O. 1975, chap. 31
Report on Family Law, Part III: Children	1973	*The Child Welfare Amendment Act, 1975*, L.O. 1975, chap. 1 (mise en vigueur partielle) *Loi portant réforme du droit des successions*, L.O. 1977, chap. 40 (mise en vigueur partielle) *Loi portant réforme du droit de l'enfance*, L.O. 1977, chap. 41 (mise en vigueur partielle) voir *Loi modifiant la Loi de 1982 portant réforme du droit de l'enfance de*, L.O. 1982, chap. 20
Report on The Solicitors Act	1973	*Loi sur les tribunaux judiciaires*, L.O. 1984, chap. 11, par. 214(6)
Report on the Administration of Ontario Courts, Part III	1973	*The Judicature Amendment Act, 1975*, L.O. 1975, chap. 30 (mise en vigueur partielle)

Titre	Date du Rapport	Législation originale concernant les propositions de la Commission
		voir *The Administration of Courts Project Act, 1975*, L.O. 1975, chap. 31
		The Small Claims Courts Amendment Act, 1977, L.O. 1977, chap. 52 (mise en vigueur partielle)
Report on Family Law, Part IV: Family Property Law	1974	*Loi portant réforme du droit des successions*, L.O. 1977, chap. 40 (mise en vigueur partielle)
		Loi portant réforme du droit de la famille, L.O. 1978, chap. 2 (mise en vigueur partielle)
		Loi sur le droit de la famille, L.O. 1986, chap. 4 (mise en vigueur partielle)
		voir *The Land Titles Amendment Act, 1978*, L.O. 1978, chap. 7
		The Registry Amendment Act, 1978, L.O. 1978, chap. 8
Report on Family Law, Part V: Family Courts	1974	voir *The Unified Family Court Act, 1976*, L.O. 1976, chap. 85
		The Children's Probation Act, 1978, L.O. 1978, chap. 41 (mise en vigueur partielle)
Report on the International Convention Providing a Uniform Law on the Form of the International Will	1974	*Loi portant réforme du droit des successions*, L.O. 1977, chap. 40, art. 42
Report on Family Law, Part VI: Support Obligations	1975	*Loi portant réforme du droit des successions*, L.O. 1977, chap. 40 (mise en vigueur partielle)

Titre	Date du rapport	Législation originale concernant les propositions de la Commission
		Loi portant réforme du droit de la famille, L.O. 1978, chap. 2
Report on Mortmain, Charitable Uses and Religious Institutions	1976	*Loi sur les biens-fonds des organisations religieuses*, L.O. 1979, chap. 45
		The Anglican Church of Canada Act, 1979, L.O. 1979, chap. 46
		The Registry Amendment Act, 1979, L.O. 1979, chap. 94, art. 17
		Loi de 1982 modifiant la Loi sur la comptabilité des oeuvres de bienfaisance, L.O. 1982, chap. 11
		Mortmain and Charitable Uses Repeal Act, 1982, L.O. 1982, chap. 12, par. 1(1)
Report on Landlord and Tenant Law	1976	*The Residential Tenancies Act, 1979*, L.O. 1979, chap. 78 (mise en vigueur partielle)
Report on Changes of Name	1976	*The Change of Name Amendment Act, 1978*, L.O. 1978, chap. 28
		The Vital Statistics Amendment Act, 1978, L.O. 1978, chap. 81, art. 1 (mise en vigueur partielle)
		Loi sur le changement de nom, L.O. 1986, chap. 7 (mise en vigueur partielle)
		Loi de 1986 modifiant la Loi sur les statistiques de l'état civil, L.O. 1986, chap. 9 (mise en vigueur partielle)
Report on the Impact of Divorce on Existing Wills	1977	*Loi portant réforme du droit des successions*, L.O. 1977, chap. 40, par. 17(2)

Titre	Date du rapport	Législation originale concernant les propositions de la Commission
Report on the Enforcement of Judgment Debts and Related Matters, Part II	1981	*Loi de 1983 modifiant la Loi sur les salaires*, L.O. 1983, chap. 68 (mise en vigueur partielle) *Loi de 1983 modifiant la Loi sur les instances introduites contre la Couronne*, L.O. 1983, chap. 88 *Loi sur les tribunaux judiciaires*, L.O. 1984, chap. 11, art. 177 (mise en vigueur partielle) Règles de procédure civile, Règl. de l'Ont. 560/84, r. 60 (mise en vigueur partielle)
Report on the Enforcement of Judgment Debts and Related Matters, Part III	1981	Règles de procédure civile, Règl. 560/84, r. 60.07(16) et (17)
Report on the Enforcement of Judgment Debts and Related Matters, Part V	1983	*Loi de 1985 modifiant la Loi sur le désintéressement des créanciers*, L.O. 1985, chap. 1 (mise en vigueur partielle)
Report on Compensation for Personal Injuries and Death	1987	*Courts of Justice Amendment Act, 1989*, L.O. 1989, chap. 67 (mise en vigueur partielle)

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ANNEXE C

SÉANCES DE DISCUSSION DE LA COMMISSION DE RÉFORME DU DROIT DE L'ONTARIO

En 1991, la Commission de réforme du droit de l'Ontario a inauguré une série de séances de discussion sur divers problèmes touchant le droit et la réforme des politiques sociales. Ces discussions ont pour objet de stimuler le débat sur les besoins de réforme du droit de l'Ontario et de son système juridique face aux défis posés par l'évolution de la société contemporaine. Dans ce but, des personnes d'expérience et d'expertise variées ont été conviées à examiner ensemble les politiques ontariennes en la matière et à engager la discussion. Au cours de l'année, la Commission a tenu les cinq séances de discussion dont il est question ci-dessous.

Rationalisation de la procédure en matière de poursuites civiles

La première séance de discussion de la Commission a eu lieu le 16 mai 1991. Sur la base d'une communication écrite présentée par Me Alan Lenczner, c.r., le débat a porté sur les moyens à prendre pour rationaliser la procédure civile. Le consensus qui se dégage de la communication et des discussions est qu'étant donné les règles actuelles de procédure civile, les litiges mettent trop de temps à atteindre l'étape du procès, et sont trop onéreux pour la majorité des clients. En conséquence, nombreux sont ceux qui ont été privés d'accès aux tribunaux, et le sont toujours. En plus de certaines autres recommandations spécifiques, on a recommandé que les avocats soient soumis à certaines échéances pour procéder, ce qui assurerait que la plupart des litiges soient entendus par les tribunaux dans les délais prévus par les règles. Ont pris part à cette séance de discussion: Peter Atkinson; le professeur Carl Barr; Thomas Bastedo; Sheila Block; Brian Bellmore; Paul Cavalluzo; le juge James Chadwick; Linda Dranoff; Stephen Goudge, c.r.; le juge John Jennings; John I. Laskin; Alan Lenczner, c.r.; Patty McQuigan; Anne Moloy; Eric Murray; Kent Roach, professeur; Harriet Sachs; Sandra Simpson; James Spence; Harvey Strosberg, c.r.; Gary Watson, c.r. et Janet Wilson.

Quelques facettes de la réforme du droit

La deuxième séance de discussion de la Commission, consacrée à certaines facettes de la réforme du droit, a eu lieu le 12 septembre 1991, en l'honneur de Madame la juge Bertha Wilson. On y a soutenu que le droit ne

pouvait être totalement indépendant de la politique, et on a suggéré que bien que la Commission de réforme du droit se limite à faire des recommandations de nature juridique, ses recommandations reflètent forcément dans une certaine mesure le contexte socio-politique. Pour le groupe multidisciplinaire que formaient ses participants, la séance de discussion fut une occasion d'examiner les origines, la mise en oeuvre et la fonction des réformes dans le domaine du droit. Ont pris part à la séance de discussion: Michael Adams; Alfred W. Blumrosen, professeur; Thomas Cowan, professeur; Robert Fulford; Anne Golden; Donna Greschner, professeure; Allan C. Hutchinson, professeur; Stien K. Lal; Roderick A. MacDonald, professeur; l'honorable Flora MacDonald; Carlton A. Masters; Maureen O'Neil; l'honorable Melvin L. Rothman; Haroon Siddiqui; Helen Sinclair; Elaine Todres et Madame la juge Bertha Wilson.

Le rôle des cliniques juridiques

Lors d'un séance de discussion tenue le 28 octobre 1991, le débat a porté sur le rôle, les fonctions et l'avenir des cliniques juridiques. Tous les participants étaient d'avis que les cliniques juridiques offrent à la collectivité des services utiles, bien que cette utilité ait diminué à cause de ressources insuffisantes et de rôles de greffe trop chargés. Tous étaient d'accord que des trois types de cliniques – cliniques de service général, cliniques de services spécialisés pour chaque affaire, et cliniques offrant divers services professionnels – avaient leur raison d'être, et devaient continuer d'exister. Le consensus fut cependant que le type de clinique juridique le plus utile était la clinique donnant accès à des services professionnels multiples, comme par exemple les services de santé, les services de travailleurs sociaux et les services juridiques. Ont assisté à cette séance de discussion: Lenny Abramowicz; Robert Armstrong; Annie Bunting; Shelley Cuthbertson; Philip Epstein, c.r.; Douglas J. Ewart; Cathy Fooks; le juge S. Grange; Judith Keene; Joanna Kuras; le juge Marion E. Lane; Donald C. MacDonald; Joan Milling; Rob Milling; Janet Mosher; Joanne St. Lewis, professeure; James M. Spence, c.r.; Andrea Walker et Fred Zemans, professeur.

Arts, culture et constitution

Le sujet de la séance de discussion du 12 décembre 1991 fut le rôle des arts et de la culture du point de vue constitutionnel. La discussion a porté sur l'importance que devrait attacher le Canada à la protection et à la promotion des arts, et sur la stratégie gouvernementale la plus efficace pour encourager leur épanouissement dans la diversité. Tous les participants étaient d'accord qu'un bon système de financement devrait prévoir des

mécanismes habilitant les gouvernements fédéral et provincial à offrir du financement, et assurant la répartition équitable et sans favoritisme des fonds. Ont pris part à cette séance de discussion : Catherine Allman; Garry Conway; Susan Crean; Nathalie Des Rosiers, professeure; Robert Fulford; Michael Ben-Gera; Sheila Greenspan; Marion Hebb; Peter Herrndorf; Diane Leblanc; Trina McQueen; Charles Pachter; David Parsons; Marilyn L. Pilkington, professeure; Tim Porteous; Angela Rebeiro; Gwen Setterfield; Cathy Smalley; Jini Stolk; John Terry; Dr. Ronald Watts; Lorraine Weinrib, professeure; John Weinzweig, professeur, et Joyce Zemans.

Conséquences de l'insertion d'une charte sociale dans une nouvelle constitution

Le 30 janvier 1992, la Commission a tenu une séance de discussion dans le but d'étudier les conséquences de l'insertion d'une charte sociale dans la Constitution. Les participants à cette séance de discussion étaient généralement d'avis que la question consistait essentiellement à assurer la survie de l'infrastructure sociale actuelle du Canada. Les participants ont discuté de la forme possible d'une charte sociale, à savoir si cette charte devait être effectivement opposable au gouvernement ou représenter une simple déclaration de principe. Ont pris part à cette discussion: Michael Ben-Gera; David Cameron, professeur; Orville Endicott; Cathy Fooks; John Foster; Rob Howse, professeur; David Hulchanski, professeur; Martha Jackman, professeure; Jane Jenson, professeure; Brian Kelsey; Diane Mandell; Errol Mendes, professeur; Penny Moss; Angelo Nikias; Bruce Porter; Judy Rebick; Barbara Rutherford; Craig Scott, professeur, et John Terry.

ANNEXE D

RENVOIS AUX RAPPORTS DE LA COMMISSION DE RÉFORME DU DROIT DE L'ONTARIO* DANS LA JURISPRUDENCE ET LA DOCTRINE

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* Liste non-exhaustive d'articles et de causes dans lesquels les rapports de la Commission ont été pris en compte et cités.

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ANNEXE E

COMMISSION DE RÉFORME DU DROIT DE L'ONTARIO
COMITÉ CONSULTATIF

Margaret Atwood

Joanne Campbell
directrice générale
Metro Toronto Housing Co. Ltd.

Marvin Catzman,
Juge à la Cour d'appel de l'Ontario

Marshall Cohen
PDG
Les Companies Molson Ltée.

Anne R. Dubin
Tory, Tory, DesLauriers & Binnington

Mary F. Dunbar,
Juge
Cour de justice de l'Ontario
(Division Provinciale)

Margrit Eichler, professeure
Département de sociologie
The Ontario Institute for Studies in Education

Catherine Frazee
Commissaire en chef
Commission ontarienne des droits de la personne

Robert Fulford

Phillipe Garigue, professeur
Études internationales,
Collège Glendon

Edward L. Greenspan
Greenspan, Rosenberg

Jack D. Ground, juge à la Cour de justice de l'Ontario
(Division Générale)

Donna J. Haley, juge à la
Cour de justice de l'Ontario
(Division Générale)

Wilson Head
président sortant
Urban Alliance on Race Relations

Gordon Henderson
Gowling, Strathy & Henderson

Peter Herrndorf
Président et PDG
TV Ontario

Peter W. Hogg
Professeur
Faculté de droit Osgoode Hall

Dr. Ron Ianni
Président
Université de Windsor

Roberta Jamieson
Ombudsman

John Jennings, juge à la
Cour de justice de l'Ontario
(Division Générale)

Stephen Lewis

Marie Marchand
Coordinatrice de projet
Women into Apprenticeship

R. Roy McMurtry, juge en chef adjoint
à la Cour de justice de l'Ontario
(Division Générale)

John Morden, juge en chef adjoint à la
Cour d'appel de l'Ontario

J. Robert S. Prichard
Président
University of Toronto

Le juge Ed Saunders
Cour de justice de l'Ontario
(Division Générale)

Graham Scott
McMillan, Binch

James M. Spence
Tory, Tory, Deslauriers & Binnington

Janet Stewart
Lerner et Associés

Katherine Swinton, professeure
Faculté de droit
Université de Toronto

Robert J.K. Walmsley, juge en chef adjoint
Conseiller spécial du juge en chef
Cour de justice de l'Ontario
(Division Provinciale)

ANNEXE F

GROUPES ET ORGANISMES CONSULTÉS PAR LA COMMISSION DE RÉFORME DU DROIT DE L'ONTARIO

Pour l'élaboration de ses divers projets, la Commission de réforme du droit de l'Ontario consulte régulièrement les membres de la magistrature, du barreau, des milieux universitaires, des ministères et des organismes provinciaux et fédéraux ainsi que de nombreux individus, organismes et institutions gouvernementales d'autres ressorts. De plus, durant la période 1989-1991, la Commission a consulté une panoplie de groupes et d'organismes dont:

La fondation de recherche sur la toxicomanie et l'alcoolisme

Adjudication Services Limited

Advocacy Resource Centre for the Handicapped

AIDS Action Now!

The AIDS Committee of Ottawa

AIDS Committee of Toronto

Association of Local Official Health Agencies

Barb Butler & Associates

Travailleurs canadiens de l'automobile

Association canadienne des libertés civiles

Commission canadienne des droits de la personne

Congrès du travail du Canada

Association médicale du Canada

Coroner en chef du Nouveau-Brunswick

Coroner en chef de l'Ontario

Coroner en chef de l'Alberta

Coroner en chef du Manitoba

Educational Testing Services

Commissaire à l'équité en matière d'emploi

Centre fédéral pour la prévention du SIDA

Haemophilia Services

Hassle Free Clinic

Imperial Oil Ltée

Commissaire à l'information et à la protection de la vie privée

McGill Centre for Medicine, Ethics and Law

Association des hôpitaux de l'Ontario

Commission ontarienne des droits de la personne

Association médicale de l'Ontario

Commission de l'équité salariale

Tribunal de l'équité salariale

Commissaire à la vie privée - Canada

Commission québécoise des droits de la personne

Banque Toronto-Dominion

ANNEXE G

DIRIGEANTS ET PERSONNEL DE LA COMMISSION DE RÉFORME DU DROIT DE L'ONTARIO

Présidente	Rosalie S. Abella, BA, LLB
Vice-président	Richard E.B. Simeon, PhD
Commissaires	Earl A. Cherniak, c.r., BA, LLB John D. McCamus, MA, LLM Margaret A. Ross, BA (Hon), LLB
Avocats	J. Jody Morrison, BA (Hon), LLB, LLM Ronda F. Bessner, BA (Hon), BCL, LLB, LLM Christine B. Henderson, BA, LLB Lisa Brownstone, BA, LLB, LLM Donald F. Bur, LLB, LLM, BCL, PhD Larry M. Fox, LLB, avocat principal en détachement auprès de la division du développement des politiques, Ministère du Procureur général, jusqu'au 31 mars 1993.
Expert invité	Roderick A. Macdonald, BA, LLM, LLL, LLM professeur à l'Université McGill
Administratrice en chef	Mary Lasica, BAA
Agente d'administration	Annetta Charles, BA
Secrétaire de la présidente	Tina Afonso
Bibliothécaire	Carol Frymer, BA
Secrétaire de l'administratrice en chef	Mary M. O'Hara
Secrétaires des avocats	D.M. Halyburton Cora Calixterio Sharon Hattori
Réceptionniste	Trina Richard, BA (Hon)

Au cours des dernières années, d'importants changements de personnel ont eu lieu à la Commission de réforme du droit de l'Ontario. Melvin A. Springman, conseiller général et directeur de recherche; Judith A, Bellis, avocate; Mordechai Ben-Dat, avocat; Anne McGarrigle, secrétaire et agente à l'administration; Beverley G. Woodley, assistante à l'administration et Christopher Hughes, bibliothécaire, ont quitté la Commission au cours de l'année. La Commission tient à exprimer sa gratitude à chacune de ces personnes pour leur dévouement et pour leur apport aux activités de la Commission. La Commission tient à noter de façon spéciale sa reconnaissance à l'endroit de M. Springman pour ses nombreuses années de service dévoué auprès de la Commission.